

# STATE PAPERS,

(PRESENTED BY COMMAND OF HIS MAJESTY.)

ONE VOLUME.

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RELATING TO

BRITISH AND SPANISH CLAIMS;  
RELATIONS BETWEEN GREAT BRITAIN AND PORTUGAL;  
AND,  
CORRESPONDENCE RESPECTING THE SLAVE TRADE.

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Session

*5 February — 24 June 1829.*

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VOL. XXVI.

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WITH

A NUMERICAL LIST OF THE PRINTED PAPERS;

AND,

A GENERAL INDEX TO THE WHOLE.

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1829.

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1829.





# STATE PAPERS,

(PRESENTED BY COMMAND OF HIS MAJESTY.)

ONE VOLUME.

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# CONVENTION

BETWEEN

HIS MAJESTY

AND

THE CATHOLICK KING,

FOR THE

*FINAL SETTLEMENT OF THE CLAIMS*

OF

BRITISH AND SPANISH SUBJECTS,

UNDER THE CONVENTION CONCLUDED AT MADRID, THE 12<sup>TH</sup> OF MARCH 1823.

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*Signed at London, October 28, 1828.*

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*Presented to both Houses of Parliament, by Command of His Majesty,  
1829.*

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LONDON :

PRINTED BY R. G. CLARKE,

AT THE LONDON GAZETTE OFFICE, CANNON-ROW, WESTMINSTER.

# CONVENTION

BETWEEN

**HIS MAJESTY AND THE CATHOLICK KING,**

FOR THE FINAL SETTLEMENT OF

**THE CLAIMS OF BRITISH AND SPANISH SUBJECTS,**

UNDER THE CONVENTION CONCLUDED AT MADRID, THE 12<sup>TH</sup> OF MARCH 1823.

*Signed at London, October 28, 1828.*

**H**IS Majesty The King of the United Kingdom of Great Britain and Ireland, and His Majesty The King of Spain and the Indies, being equally convinced of the great and almost insuperable difficulties that have presented themselves in carrying into effect, by means of the mixed Commission appointed under the Convention concluded on the 12th of March 1823, the stipulations of the said Convention, respecting the claims preferred by subjects of both Nations,—have considered that the most speedy and efficacious manner of obtaining the objects which Their Britannick and Catholick Majesties proposed to themselves in framing the Convention above-mentioned, would be that of a compromise, or amicable adjustment, in which Their said Majesties, by common consent, should assign fixed and proportionate sums for the indemnification of the Claimants of both Countries, so that each of the two High Contracting Parties should possess the power of adjudging and satisfying the legitimate claims of its own subjects, out of the sums which each Government should, for such purpose, receive from the other, or of distributing those sums among the individuals interested, by means of an arrangement mutually agreed upon.

With this view, Their Britannick and Catholick Majesties have nominated and appointed as their respective Plenipotentiaries, namely :—His Majesty The King of the United Kingdom of Great Britain and Ireland, the Right Honourable George Earl of Aberdeen, Viscount Gordon, Viscount Formartine, Lord Haddo, Methlick, Tarvis, and Kellie, a Peer of the said United Kingdom, a Member of His Majesty's Most Honourable Privy Council, Knight of the most ancient and most noble Order of the Thistle, and

**H**ALLANDOSE Su Magestad el Rey del Reino Unido de la Gran Bretaña y de Yrlanda, y Su Magestad el Rey de España y de las Yndias, igualmente convencidos de las graves y casi insuperables dificultades que se han presentado para llevar á efecto, por medio de la Comision mixta creada por el Convenio celebrado en 12 de Marzo de 1823, las estipulaciones de dicho Convenio, respectivas á las reclamaciones de subditos de ambas Naciones,—han conceptuado que la manera mas pronta y eficaz de conseguir los objetos que Sus Magestades Británica y Católica se propusieron en la formacion del referido Convenio, seria la de una transaccion ó ajuste amistoso, en que, de comun acuerdo, Sus referidas Magestades destinasen cantidades fijas y proporcionadas para la indemnizacion de los reclamantes de ambas partes, quedando á cada una de las dos Altas Partes Contratantes la facultad de juzgar y satisfacer las reclamaciones legítimas de sus propios subditos con las sumas que para ello percibiese de la otra, ó de distribuir estas entre los interesados, por medio de un arreglo particular con los mismos.

Con este objeto, Sus Magestades Británica y Católica han nombrado y constituido por sus respectivos Plenipotenciarios, á saber :—Su Magestad el Rey del Reino Unido de la Gran Bretaña y de Yrlanda, al Muy Honorable Jorge Conde de Aberdeen, Vizconde Gordon, Vizconde Formartine, Lord Haddo, Methlick, Tarvis, y Kellie, Par del mencionado Reino Unido, Miembro del Muy Honorable Consejo Privado de Su Magestad Británica, Caballero de la muy antigua y muy noble Orden del Cardo, y Principal

His said Majesty's Principal Secretary of State for Foreign Affairs :—and His Majesty The King of Spain and the Indies, His Excellency Don Narciso de Heredia, Count of Ofalia, actual Knight of the Royal Spanish Order of Charles III, Knight Grand Cross of the American Order of Isabel the Catholick, and of the Legion of Honour of France, Councillor of State, and His said Majesty's Envoy Extraordinary and Minister Plenipotentiary on a special Mission to the Court of His Britannick Majesty :—who, after having communicated to each other their respective Full Powers, found to be in due and proper form, have agreed upon and concluded the following Articles :—

#### ARTICLE I.

His Catholick Majesty engages to make good to His Britannick Majesty, the sum of nine hundred thousand pounds sterling, in specie, as the amount of the whole of the English claims presented to and registered by the mixed Commission established by the Convention of the 12th of March 1823.

#### ARTICLE II.

His Britannick Majesty engages to make good, in the same manner, the sum of two hundred thousand pounds sterling, as the amount of the whole of the Spanish claims, presented to and registered by the mixed Commission, in pursuance of the said Convention.

#### ARTICLE III.

It shall be lawful for either of the High Contracting Parties to cause to be adjudged within its respective Territory the claims of its own subjects, in order to satisfy, within twelve months from the date of the exchange of the Ratifications of the present Convention, such claims as shall appear to be just and legitimate, out of the sums which one of the High Contracting Parties shall receive, for this purpose, from the other : or it shall be lawful for the Government of either of the said High Contracting Parties to agree with the persons interested, or their assigns, upon any other mode of arrangement which may be deemed most expedient for satisfying them within the same term, without the necessity of any previous and formal adjudication.

Secretario de Estado de Su referida Magestad en el Departamento de Negocios Extranjeros :—y Su Magestad el Rey de España y de las Yndias, al Escelentísimo Señor Don Narciso de Heredia, Conde de Ofalia, Caballero de numero de la Real Orden de Carlos III, Gran Cruz de la Real Orden Americana de Ysabel la Católica, y de la Legion de Honor de Francia, Consejero de Estado de Su Magestad Católica, y Su Enviado Extraordinario y Ministro Plenipotenciario encargado de una Mision especial cerca de Su Magestad Británica :—los cuales, despues de haberse comunicado sus respectivos Plenos Poderes, y hallandolos en buena y debida forma, han acordado y convenido en los Articulos siguientes :—

#### ARTICULO I.

Su Magestad Católica se obliga á satisfacer á Su Magestad Británica la cantidad de novecientas mil libras esterlinas, en dinero efectivo, por el importe de la totalidad de las reclamaciones Ynglesas presentadas y registradas ante la Comision mixta creada por el Convenio de 12 de Marzo de 1823.

#### ARTICULO II.

Su Magestad Británica se obliga á satisfacer, en la misma forma, la cantidad de doscientas mil libras esterlinas, por el importe de la totalidad de las reclamaciones Españolas presentadas y registradas ante la Comision mixta, á consecuencia del mismo Convenio.

#### ARTICULO III.

Cada una de las dos Altas Partes Contratantes podrá hacer juzgar dentro de su respectivo Territorio, las reclamaciones de sus propios subditos, para satisfacer, dentro de un año contado desde el dia del cange de las ratificaciones del presente Convenio, las que resulten ser justas y legitimas, con las sumas que para ello percibe de la otra : ó podrá el Gobierno de cada una de las referidas Altas Partes Contratantes convenirse con los interesados, ó quien los represente, en cualquiera otro medio de arreglo que se conceptue mas expedito para satisfacerles dentro del mismo termino, sin necesidad de que preceda un juicio formal.

## ARTICLE IV.

The Government of His Britannick Majesty shall retain in its possession the sum of two hundred thousand pounds sterling, which, by the second Article, is to be made good to Spain, in order to set that sum against, or deduct it from, the nine hundred thousand pounds sterling which it is to receive from the same; but it is expressly declared, that this compensation is stipulated on the understanding that His Catholick Majesty, within the period specified in the preceding Article, shall pay to His own subjects the amount of their legitimate claims against England, preferred under the Convention of the 12th of March 1823, in specie, or in other effective value; and in such a manner that His Britannick Majesty may be exempted from every responsibility for the amount of such claims.

## ARTICLE V.

His Catholick Majesty shall effectuate the payment of the nine hundred thousand pounds sterling, in satisfaction of the English claims, by instalments, in the following order:—

Two hundred thousand pounds sterling shall be delivered over on the day on which the exchange of the Ratifications of the present Convention shall take place; and another like sum at the expiration of three months from the exchange alluded to.

The compensation mentioned in the preceding Article shall be considered as the payment of two hundred thousand pounds sterling more; and the remaining three hundred thousand pounds sterling shall be made good by two instalments, at the rate of one hundred and fifty thousand pounds sterling; the one at six months, and the other at nine months, from the date of the exchange of the Ratifications.

## ARTICLE VI.

The two last instalments of one hundred and fifty thousand pounds each, His Catholick Majesty reserves to himself the power either of paying up in specie, at the time of that sum falling due, or of effectuating the payment by certificates of inscriptions in the English and Spanish language, expressing the purpose for which they are issued, bearing interest at five per cent. per annum, payable half-yearly in London, at fifty per cent. discount.

## ARTICULO IV.

El Gobierno de Su Magestad Británica retendrá en su poder la suma de doscientas mil libras esterlinas, que, por el Artículo segundo, debe satisfacer al de España, á fin de compensarlas ó deducirlas de las novecientas mil libras esterlinas que tiene que percibir del mismo; pero queda espresamente declarado, que esta compensacion se estipula en la inteligencia de que Su Magestad Católica, dentro del termino convenido en el Artículo precedente, pagará á sus propios subditos el importe de sus reclamaciones legitimas contra la Ynglaterra, segun el Convenio de 12 de Marzo de 1823, en dinero, ó en otros valores efectivos; y de tal manera que el Gobierno de Su Magestad Británica quede exento de toda responsabilidad por el importe de las espresadas reclamaciones.

## ARTICULO V.

El pago de las novecientas mil libras esterlinas respectivas á las reclamaciones Ynglesas, lo realizará Su Magestad Católica en diferentes plazos, por el orden siguiente:—

Se entregarán doscientas mil libras esterlinas en el dia que se verifique el cange de las Ratificaciones del presente Convenio; y otra igual suma á los tres meses de dicho cange.

Se considerará como pago de otras doscientas mil libras esterlinas la compensacion de que va hecha mencion en el Artículo precedente:—y las trescientas mil libras esterlinas restantes se satisfarán en dos plazos, á razon de ciento y cincuenta mil libras esterlinas; el uno á los seis meses, y el otro á los nueve, de la fecha del cange de las Ratificaciones.

## ARTICULO VI.

Por lo que respecta á los dos ultimos plazos de ciento y cincuenta mil libras cada uno, Su Magestad Católica se reserva la facultad de poder satisfacerlos en numerario, al tiempo de su respectivo vencimiento, ó de verificarlo en certificaciones de inscripciones estendidas en Yngles y en Español, con espresion del objeto para que se espiden, y con el interes de cinco por ciento anual, pagadero por semestres en Londres; las cuales se darán al descuento de cincuenta por ciento.

For this purpose, His Catholick Majesty shall, within three months from the date of the Ratifications of this Convention, cause the sum of sixty millions of reals of vellon, in such inscriptions, (being equal, at one hundred reals to the pound sterling, to the sum of six hundred thousand pounds sterling,) to be lodged in the Bank of England, or with the Banker of the Court of Spain in London, with instructions to deliver one half of them to the Government of His Britannick Majesty, for the use of the claimants, on the day of each of the said instalments falling due, provided they shall not be punctually paid in sterling money.

It is likewise hereby agreed, that the Government of His Catholick Majesty shall have the power of redeeming the inscriptions thus created, during the four years succeeding, and upon giving six months notice, at the rate of fifty-five pounds for every hundred pounds so delivered. After such period of four years, the Spanish Government shall only possess the power of redeeming the inscriptions referred to, at the rate of sixty pounds for every hundred pounds.

#### ARTICLE VII.

His Catholick Majesty shall be at liberty to effect the payment of the second instalment of two hundred thousand pounds sterling, mentioned in Article V, by delivering, on its being due, fifty thousand pounds in ready money, and one hundred and fifty thousand pounds in inscriptions at fifty per cent., making three hundred thousand pounds in inscriptions; but this arrangement is only to take place on the express condition that the payment of one of the two last instalments of one hundred and fifty thousand pounds sterling, mentioned in Article VI, shall be made in ready money.

#### ARTICLE VIII.

The inscriptions to be delivered by the Government of His Catholick Majesty, shall be, in all essential points, according to the form which is annexed to the present Convention.

#### ARTICLE IX.

As soon as the said sum of nine hundred thousand pounds sterling shall have been paid, all the bills of exchange, tibranzas, and other documents, forming

Para este efecto, Su Magestad Católica dispondrá que dentro de tres meses de la fecha de las Ratificaciones de esta Convenio, una suma de sesenta millones de reales vellon, en dichas inscripciones, (la cual, á razon de cien reales vellon por libra esterlina, es equivalente á seiscientas mil libras esterlinas en inscripciones) se deposite en el Banco de Ynglaterra, ó en poder del Banquero de la Corte de España en Londres, con las oportunas instrucciones para que se entregue la mitad de ellas al Gobierno de Su Magestad Británica, á beneficio de los reclamantes, en el dia del vencimiento de cada uno de los referidos plazos, si no estuviese satisfecho para aquel dia en moneda esterlina.

Se ha convenido igualmente que el Gobierno de Su Magestad Católica tendrá la facultad de poder redimir las inscripciones creadas al efecto, en los cuatro primeros años, y dando aviso, con seis meses de anticipacion, á razon de cincuenta y cinco libras esterlinas en efectivo, por cada ciento que recoja en inscripciones. Despues de trascurridos los cuatro años, el Gobierno Español solo podrá redimir las mencionadas inscripciones, á razon de sesenta libras esterlinas por cada ciento.

#### ARTICULO VII.

Su Magestad Católica podrá hacer el pago del segundo plazo de doscientas mil libras esterlinas, mencionado en el Artículo V, entregando á su vencimiento cincuenta mil libras en efectivo, y ciento y cincuenta mil en inscripciones al cincuenta por ciento, que hacen trescientas mil de esta especie; pero, en este caso, será precisamente obligatorio el pago en dinero efectivo de uno de los dos ultimos plazos de ciento y cincuenta mil libras, de que se hace mencion en el Artículo VI.

#### ARTICULO VIII.

Las inscripciones que se espidan por el Gobierno de Su Magestad Católica, deberán ser conformes, en todo lo esencial, al modelo de que va unida copia al presente Convenio.

#### ARTICULO IX.

Verificado que sea el pago de las novecientas mil libras esterlinas, se entregarán al Gobierno de Su Magestad Católica todas las letras de cambio, li-

and constituting the value represented by the aggregate of the English claims against Spain, shall be given up to the Government of His Catholick Majesty.

#### ARTICLE X.

There shall be given up also, on the part of the Government of His said Catholick Majesty, at the period specified in the preceding Article, all the documents relative to the Spanish claims against England.

#### ARTICLE XI.

To prevent any of those claims which shall be satisfied by the present Convention, from again being produced under any other form or pretence, it is hereby agreed that the mixed Commission appointed under the aforesaid Convention of the 12th of March 1823, shall, prior to the cessation of the exercise of its functions, add to the lists already formed of the English and Spanish claims, presented to and registered by the same, such notes or remarks, relating to the documents in support of those claims, as may be deemed necessary, in order that the said lists and notes, after being given up to both Governments in an authentic form, may serve them as a security, till the delivery of the original documents shall take place.

#### ARTICLE XII.

The aforesaid Convention of the 12th of March 1823, and the several articles and things therein contained, except so far as the same are altered by this present Convention, are hereby declared to be, and shall remain, in force.

#### ARTICLE XIII.

The present Convention shall be ratified, and the Ratifications shall be exchanged in forty days from the date hereof, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their Arms.

Done at London, the twenty-eighth day of October, in the year of our Lord one thousand eight hundred and twenty-eight.

(L.S.) ABERDEEN.

branzas, y demas documentos que forman y constituyen el valor representado por la masa de las reclamaciones Ynglesas contra la España.

#### ARTICULO X.

Ygual entrega se hará, por parte del Gobierno de Su Magestad Católica, de los documentos respectivos á las reclamaciones Españolas contra la Ynglaterra, en el tiempo mencionado en el Artículo precedente.

#### ARTICULO XI.

Para evitar que ninguna de las reclamaciones que han de quedar fenecidas por el presente Convenio, pueda aparecer de nuevo, bajo otra forma ó pretexto; se ha convenido que la Comision mixta nombrada en consecuencia del referido Convenio de 12 de Marzo de 1823, antes de cesar en el egercicio de sus funciones, deberá añadir á las listas ya formadas de las reclamaciones Ynglesas y Españolas presentadas y registradas ante ella, las notas ó apuntaciones referentes á los documentos de las mismas reclamaciones, que se crean necesarias, para que entregadas á ambos Gobiernos dichas listas y notas en forma autentica, puedan servirles de resguardo, hasta tanto que se verifique la entrega de los documentos originales.

#### ARTICULO XII.

Se declara que el citado Convenio de 12 de Marzo de 1823, y los diferentes articulos y clausulas que contiene, subsistirán en vigor, á escepcion de aquella parte de los mismos que se halla alterada por el presente Convenio.

#### ARTICULO XIII.

El presente Convenio será ratificado, y las Ratificaciones cangeadas en el termino de cuarenta dias contados de su fecha, ó antes si fuese posible.

En fé de lo cual, los respectivos Plenipotenciarios lo han firmado, y sellado con el sello de sus Armas.

Fecho en Londres, el dia veinte y ocho de Octubre, de mil ochocientos veinte y ocho.

(L.S.) EL CONDE DE OFALIA.

## FORMULA OF INSCRIPTION.

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N <sup>o</sup> . — Capital £500 sterling, equivalent to Capital of 50,000 reals vellon.	}	Annuity £25 sterling, equivalent to Annuity of 2,500 reals vellon.
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This Debenture has been issued in satisfaction of an Agreement entered into at London, the 28th day of October 1828, in execution of a Convention signed at Madrid the 12th of March 1823, between His Britannick Majesty and His Majesty The King of Spain, for the payment of the Claims of British Subjects.

## SPANISH FIVE PER CENT

Consolidated Annuities, payable in London, inscribed on the Great Book of the Consolidated Debt of Spain.

N <sup>o</sup> . — Capital £500 sterling, equivalent to Capital of 50,000 reals vellon.	}	Annuity £25 sterling, equivalent to Annuity of 2,500 reals vellon.
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The Bearer hereof is entitled to an Annuity of Twenty-five Pounds, payable in London, in moieties, every six months, on the \_\_\_\_\_ of \_\_\_\_\_ and the \_\_\_\_\_ of \_\_\_\_\_

The Spanish Government reserves to itself the right of redeeming this Debenture by payment in London, during the four years succeeding the date hereof, at the rate of 55 per Cent., or, at any subsequent period, at the rate of 60 per Cent. on the nominal amount, giving, in either case, six months notice in the London Gazette.

A. B. Secretary of State, Minister of Finance.  
 C. D. Director of the Sinking Fund.  
 E. F. }  
 G. H. } British Commissioners for Claims.



Nº. — Capital 500 libras esterlinas,  
equivalente á  
Capital 50,000 reales vellon. } { Rente 25 libras esterlinas,  
equivalente á  
Rente 2,500 reales vellon.

# CINCO POR CIENTO ESPAÑOL

N.º.— Capital libras esterlinas 500, } Renta Anual 25 libras esterlinas,  
equivalente á } equivalente á  
Capital reales vellon 50,000. } Renta Anual 2,500 reales vellon.

El Gobierno Español se reserva la facultad de redimir esta Ynscripcion, por medio del pago en Londres, dentro de los cuatro años primeros contados desde su fecha, á razon de 55 por 100, ó, despues de dicho periodo, á razon de 60 por 100, de su valor nominal, dando, en ambos casos, aviso de ello, con seis meses de anticipacion, en la Gaceta de Londres.

**Firmas.**—Del Ministro de Hacienda.  
Del Director de la Caja de Amortizacion.  
De los Comisarios de Reclamaciones.

The Certificates of inscriptions, which are to be deposited by the Government of His Catholick Majesty, and which will be given in payment, in the case specified in Article VI. of the Convention signed this day, shall be issued according to the following distribution :—

Two hundred, of one thousand pounds each.  
 One hundred and twenty, of eight hundred pounds each.  
 Two hundred, of five hundred pounds each.  
 Four hundred, of two hundred and fifty pounds each.  
 Four hundred and twenty, of two hundred pounds each.  
 Two hundred, of one hundred pounds each.

In witness whereof, We, the Undersigned, Plenipotentiaries of His Britannick Majesty and His Catholick Majesty, have signed the present Formula, and have affixed thereunto the seals of our Arms.

Done at London, the twenty-eighth day of October, in the year of our Lord one thousand eight hundred and twenty-eight.

(L.S.) ABERDEEN. (L.S.) OFALIA.

**ADVERTENCIA.**

**Los Certificados de Ynscripciones que han de depositarse, y que se darán en pago, en el caso prevenido por el Artículo VI. del Convenio firmado en este día, se espedirán en el siguiente orden de distribucion :—**

**Doscientas, de mil libras esterlinas cada una.**

**Ciento y veinte, de ochocientas cada una.**

**Doscientas, de quinientas cada una.**

**Cuatrocientas, de doscientas y cincuenta cada una.**

**Cuatrocientas y veinte, de doscientas cada una.**

**Doscientas, de cien libras cada una.**

**En fé de lo cual, nos los abajo firmados Plenipotenciarios de Su Magestad Británica, y de Su Magestad Católica, hemos firmado la presente Formula, y hemos puesto en ella el sello de nuestras Armas.**

**Fecho en Londres, á veinte y ocho de Octubre, de mil ochocientos y veinte y ocho.**

**(L.S.) ABERDEEN.**

**(L.S.) OFALIA.**



**P A P E R S**

**RESPECTING THE RELATIONS**

**BETWEEN**

**GREAT BRITAIN AND PORTUGAL.**

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*Presented to both Houses of Parliament, by Command of His Majesty,  
June, 1829.*

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**LONDON :**

**PRINTED BY J. HARRISON AND SON, LANCASTER COURT, STRAND.**



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**P A P E R S**  
**RESPECTING THE RELATIONS BETWEEN**  
**GREAT BRITAIN AND PORTUGAL.**  
**1826—1829.**

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*Correspondence with Sir William à Court and Sir Charles Stuart,  
relative to the Constitution for Portugal, granted by His Imperial  
Majesty the Emperor of Brazil, 1826.*

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No. 1.

*Mr. Secretary Canning to Sir William à Court.*

(Extract.)

*Foreign Office, June 28th, 1826.*

ALTHOUGH it is scarcely possible that the intelligence which has been received at Paris from Rio de Janeiro, should not be already known at Lisbon, or, at least, should not arrive there before this Packet, yet (to leave nothing to chance) I inclose to Your Excellency the Copy of a Despatch, received yesterday from His Majesty's Ambassador at Paris, inclosing the publication in the Moniteur, of the Act by which the Emperor of Brazil abdicates the Crown of Portugal, in favour of His Daughter.

In this Act reference is made to another, by which His Imperial Majesty has given a Constitution to the Kingdom of Portugal. But of that Act (whether it has not been received in France, or whether Lord Granville has inadvertently omitted to forward it) I am not enabled to send you a copy.

(Signed) **GEORGE CANNING.**

*His Excellency Sir William à Court,  
G. C. B. &c. &c. &c.*

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No. 2.

*Sir Charles Stuart to Mr. Secretary Canning.—(Received July 7th.)*

(Extract.)

*Rio de Janeiro, April 30th, 1826.*

HIS Imperial Majesty then talked of conciliating the affections of the Portuguese by giving them a Constitutional Charter; and, if the War should turn out unsuccessfully in the South, of obtaining military succour from Portugal, with a view to diminish the burthen, which is already severely felt in this Country.

My suspicion of the principles which such a Charter might promulgate, induced me to point out the necessity of caution; saying, that, if the mere convocation of the Cortes, who were the ancient and legitimate Institution of the Kingdom, was viewed with jealousy by Spain and France, what mischief might not be produced by a change, in which the Cortes had borne no part; and M. de Paranagua, who saw His Majesty soon after, entered so fully into the spirit of this objection, that, for several days, no other Constitutional System, but such as should be founded upon the ancient Institutions of Portugal, was thought of.

(Signed) **CHARLES STUART.**

*The Right. Hon. George Canning,  
&c. &c. &c.*

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*Sir Charles Stuart to Mr. Secretary Canning.—(Received July 7th)*

(Extract.)

*Rio de Janeiro, April 30th, 1826.*

THE Council did not separate, on Friday, until they had determined upon a complete change of Measures, since it was resolved that His Imperial Majesty should merely accept the Crown of Portugal for the purpose of giving to that Kingdom a Constitutional Charter, suited to the circumstances of the times, and that, in the event of this Charter being favourably received, and his eldest Daughter given to the Infante Dom Miguel, he should abdicate in her favour.

I thought the consequences of this change too important to be passed over without comment, and I, therefore, waited upon His Imperial Majesty.

I took the liberty of remarking to His Majesty, that, since he was reluctant to depend upon the ancient Institutions of the Country, by convoking the Cortes of Lamego, it was absolutely necessary to announce the Constitutional changes which He meditated, in such a manner that they should not appear to emanate from the Councils of His Brazilian Advisers, and that I, therefore, hoped he would not wait for the Meeting of the Chambers in Rio de Janeiro, to publish His Decrees; adding that, although the same argument did not apply to the Constitution, of which the tendency might be misinterpreted in Brazil, I implored him, to bear in mind the possible hesitation of the People of Portugal to receive a boon, which should be calculated to involve them in disputes with their Neighbours, and not to allow the Constitution to transpire, before He should be certain that it had been accepted.

His Majesty said that He appreciated the justice of my reasons for preferring the old Institutions of Portugal, but that, however much I might admire those Institutions, I must admit that, since they were not, in every respect, suited to the present day, some change must necessarily be introduced, and, this necessity once admitted, the Cortes would become a Constituent Body, subject to a thousand inconveniences which a Charter could alone remove. He then produced His Project of Constitution, already completed, to the compilation of which He had devoted the greater part of the week; and the joy with which he spoke of its contents shows, that the promulgation of this Act is the principal inducement held out to Him, by His Advisers, for the abdication of the Crown of Portugal.

As it was impossible for me to look through so long a Paper at that time, he told me, generally, that it established two Chambers, and that, as it upheld the prerogatives of the Sovereign, and the power of the Nobility, he could not coincide in the fears which I seemed to entertain respecting its possible effect in other Countries.

He then proceeded to develop the plans, according to which his own abdication is conditional, and dependent upon the marriage of his Daughter by proxy to the Infante Dom Miguel, and upon the acceptance of the Constitution. The Regency is, in the first instance, confirmed, the Amnesty published, and, as soon as the three Estates shall have taken the Oaths to the new Constitution, the Queen will repair to Lisbon.

After some altercation, His Majesty promised to delay the publication of the Portuguese Charter, until it should have been accepted at Lisbon, whither he stated his wish to send these Acts through my hands, as Portuguese Plenipotentiary, since he considers them the complement of the Treaty which I had signed, for the separation of the two Countries.

I was somewhat startled by this mark of confidence, which I endeavoured to avoid, by expressing my doubts how far such a course might meet the approbation of my Court. As, however, he persisted in his determination, I replied that his request embarrassed me very much, since I was totally unprepared to take upon myself so heavy a responsibility, for that His Imperial Majesty might have observed, that, in the course of the dis-

cussions upon this subject, I had not allowed myself to give an opinion which did not directly refer to the public Acts approved by The King's Government.

Whatever may be the view taken by His Majesty's Ministers of the transactions detailed in this Despatch, they are by no means committed by my language or my proceedings, under a total want of Instructions, and they consequently remain at liberty to follow the course which they may consider expedient.

*The Right Hon. George Canning.* (Signed) CHARLES STUART.  
 &c. &c. &c.

No. 4.

*Sir Charles Stuart to Mr. Secretary Canning.—(Received July 7.)*

(Extract)

*Rio de Janeiro, May 1, 1826.*

THE Emperor sent for me, before he received the Diplomatic Corps, this morning, for the purpose of telling me that the Acts, relative to the settlement of Affairs in Portugal, having been completed, he considered it a mark of respect to the memory of his Father, to request the Plenipotentiary, whom he had chosen to negotiate the separation of the two Countries, to perfect the work which had been so successfully commenced during His lifetime; adding, that when he had shewn me, in my audience on the preceding day, the several Papers which he had drawn up, he had fully opened his mind to me, and reposed in me a degree of confidence of which no other Person could boast.

I have the honour to inclose a Copy of the Full Powers which His Imperial Majesty has been pleased to express his intention to intrust to me, and shall proceed to Lisbon on board the "Diamond" as soon as she can be got ready for sea.

*The Right Hon. George Canning,* (Signed) CHARLES STUART.  
 &c. &c. &c.

*Enclosure in No. 4.—(Translation.)*

*Full Powers granted by the Emperor of Brazil to Sir Charles Stuart.*

*May 2nd, 1826.*

HONOURED MARQUESS OF ANGRA, SIR CHARLES STUART, MY FRIEND.

I THE KING send you Greeting as to One whom I love much. In consideration of your merits, and of the love which, on no few occasions, you have shewn for my Royal Person and Family, I am pleased to authorize you to deliver, in my Royal Name, to the Regency of the Kingdom, my Royal Decrees of the 26th, 27th, 28th, 29th, and 30th of April, and 1st of May, as well as my Letters of Constitution and Law, the one of the 29th April, and the other of the 2nd May, all of this year, which I have intrusted to you—equally authorizing you to do whatever may be necessary for the execution of my Royal Orders.

Given in the Palace of Rio de Janeiro, this 2nd day of May, 1826.

*The Marquess of Angra,* (Signed) THE KING.  
*Sir Charles Stuart.*

No. 5.

*Mr. Secretary Canning to Sir Charles Stuart.*

(Extract.)

*Foreign Office, July 12th, 1826.*

COLONEL FREEMANTLE arrived here on Friday evening, the 7th Instant, with your Excellency's Despatches to the 7th of May inclusive, which have been laid before the King.

Every thing of what your Excellency brings from Rio de Janeiro to Lisbon, will be precisely what the Portuguese Government and Nation are prepared to expect, except the Charter of a Constitution.

The opinion, indeed, has long prevailed at Lisbon, that a convocation of the Cortes (in some shape or other) would be necessary for the sanction of a new Order of Succession to the Crown of Portugal.

Whether the substitution of a Representative Constitution for the more ancient form of National Assembly, will be received with equal satisfaction in Portugal, cannot be confidently pronounced beforehand. But there appears no reason to doubt of the acquiescence of the Nation in the dispensation of a Sovereign, for the manifestation of whose pleasure they have professed to look with the utmost deference and submission.

Whatever may be, upon the whole, the preferable choice between the respective merits of the two modes of Settlement, which were at the Emperor's option, that by a convocation of the Cortes, or that by a Constitutional Charter, it is not to be denied that there is much weight in the remark of His Imperial Majesty, that the convocation of an Assembly, which has been so long disused, that its very composition and modes of proceeding might be liable to doubt, would be even more likely to lead to the stirring of difficult questions, and to the excitement of excessive popular claims; more likely, in short, in the Emperor's own words, to degenerate into "a Constituent Assembly," than a New Code, defining at once the Rights and Duties of all Ranks and Orders of the State, and prescribing the Forms of their deliberations, and the limits of their respective powers.

It is not to be denied that the *Notables* of France, in 1789, on the one hand, and the Charter of Louis XVIII., in 1815, on the other, come, in a remarkable degree, in aid of His Imperial Majesty's reasoning.

It may be hoped, therefore, that when those Courts, which are naturally most adverse to *any* convocation of National Assemblies, consider that the avoiding of *all* such convocation was absolutely impossible, and that the option was merely between Two *forms* of Assembly, they will abstain from opposition to that which has been selected; the rejection whereof in Portugal could only lead to a state of things which would revive all the difficulties that have just been overcome, and place the Crown of Portugal, and not the Crown only, but the Monarchy itself, of Brazil, in danger.

In order that we may inculcate with more effect on other Governments the duty of abstaining from any interference with the free agency of Portugal, it is particularly expedient to remove all grounds of jealousy, as to the exertion of British influence on so momentous an occasion.

For this reason, while His Majesty entirely approves of Your Excellency's having consented (under the peculiar circumstances of your situation in Brazil) to be the bearer of the Emperor's Decrees from Rio de Janeiro to Lisbon, I am to signify to you His Majesty's pleasure, that, so soon as you shall have delivered those several Instruments into the proper hands, and shall have rendered account to the Portuguese Ministry of the Mission with which Your Excellency was charged from His Most Faithful Majesty's Government to the Emperor of Brazil, Your Excellency should take leave of the Infanta Regent, and return Home.

*His Excellency Sir Charles Stuart.*

(Signed)

GEORGE CANNING.

G. C. B. &amp;c. &amp;c. &amp;c.

## No. 6.

*Mr. Secretary Canning to Sir William à Court.*

(Extract.)

*Foreign Office, July 12, 1826.*

I enclose to your Excellency a Copy of a Despatch which I address by this occasion, to Sir Charles Stuart.

If Sir Charles Stuart sailed from Rio de Janeiro, as I understand (from other information) he was likely to do, on the 11th of May, His Excellency may have reached Lisbon early in this month, and may perhaps have embarked for England even before this Packet arrives in the Tagus.

A foolish notion had got abroad in France, that Sir Charles Stuart's Powers from the Emperor of Brazil, amounted to the constituting of His Excellency a Member of the Regency of Portugal. I see nothing in the Copy of those Powers which I have received from Sir Charles Stuart that admits such a construction.

There is nothing in Sir Charles Stuart's Despatches to countenance the gloss which it has been attempted to put upon Sir Charles Stuart's consent to be the bearer of the Emperor's Decrees to Lisbon; the Instruction to Sir Charles Stuart to return Home "so soon as he shall have delivered those Instruments into the proper hands, and have rendered to the Portuguese Ministry an account of his Mission from His Most Faithful Majesty to Brazil," cannot be mistaken.

I do not think it necessary to state to Sir Charles Stuart a misapprehension in which I am confident he does not participate, and which his speedy departure from Lisbon will effectually put down.

Lest, however, the Regency or Ministry of Portugal should be led into any error upon this subject, which may possibly be the case, and should consult your Excellency upon the expediency of requesting Sir Charles Stuart to remain at Lisbon, to superintend, either as a Member of the Government, or as a Commissioner of the Emperor of Brazil, or in any other character, the execution of His Imperial Majesty's Decrees, or of any of them, I am to instruct your Excellency to discourage at once any such proposition, and to decline transmitting it to your Court.

The general substance of the Instruction to Sir Charles Stuart, your Excellency will consider as addressed equally to yourself, and will make it the guide of your language in communicating with the Portuguese Government, and with your Diplomatic Colleagues.

*His Excellency Sir William à Court,* (Signed) GEORGE CANNING.  
G. C. B. &c. &c. &c.

## No. 7.

*Mr. Secretary Canning to Sir William à Court.*

(Extract.)

*Foreign Office, July 17th, 1826.*

I TRANSMIT to your Excellency Copies of all the Despatches on the Affairs of Portugal, which have been addressed to His Majesty's Ambassadors and Ministers abroad, since the date of my last Despatch to your Excellency.

Your Excellency is at liberty to make such communication of them as you may think expedient to Count de Porto Santo, who will not fail to observe with what anxious perseverance His Majesty's Government are labouring, to create in other Powers a disposition favourable to the peace and security of Portugal.

\* \* \* \* \*

In submitting these considerations to Count de Porto Santo, your Excellency will take care not to offer them as the settled opinion or peremptory advice of your Government.—We are too conscious of the imperfectness of

our acquaintance with the prevailing sentiments of the Portuguese Nation, and of the inability of any Foreign Government to enter fully into National feelings, prejudices, or prepossessions,—to presume to offer counsel to the Portuguese Ministry, in any other sense, or with any other view, than that of laying before them the elements of a decision which it is for them, and them only, to form.

It appears to us, upon the whole, that the best chance of a safe and tranquil issue to the present extraordinary crisis in Portugal, will be to be found in an acceptance (as immediate as may be suitable with the importance of the measure) of the Charter of Don Pedro, coupled (as it is) with his Abdication of the Throne. Any other course must, as it appears to us, be full of danger; but if, nevertheless, another course shall be pursued, we shall not be the less anxious for its peaceable and happy issue, than if it were one which we had ourselves advised.

*His Excellency Sir William à Court,*  
G. C. B. &c. &c. &c.

(Signed) GEORGE CANNING.

No. 8.

*Mr. Secretary Canning to Sir William à Court.*

Sir,

*Foreign Office, July 19, 1826.*

IN my Despatch of the 17th instant, as well as in all the Despatches upon the same subject, which have been addressed to His Majesty's Ambassadors and Ministers, Copies of which I have inclosed to your Excellency, your Excellency will observe that I have cautiously abstained from entering, in the smallest degree, into the merits of the Constitutional Charter which Don Pedro has devised for Portugal. It is not for His Majesty's Government to analyze a Project, framed by a friendly Sovereign for the government of his Dominions, nor to express any other sentiment respecting it, than the wish and the hope that, if carried into effect in Portugal, it may conduce to the stability of the Monarchy, to the prosperity of the State, and to the happiness and rational liberty of the People.

There are, however, two points in this Constitutional Charter; (I am not, upon such examination, as I have yet been able to give to it, aware of more) to which I am compelled to call your Excellency's attention, and to direct you to invite that of the Portuguese Ministry; because they trench directly upon the rights of this Country under Treaty.

With any internal changes in a Foreign State affecting only the municipal Laws of that State and the interests of its Subjects, no Foreign Government has any pretension to meddle. But Treaty is a law which binds State to State, and of which no internal changes in one State, can justify the violation, to the detriment of another.

By one Article of the proposed Constitution, the liberty of Religious Worship is restrained, far within the limits to which the British Nation is entitled to enjoy it, and does enjoy it, in Portugal. It is ordained that no external appearance of a Church shall be allowed to any other than the established Religion of the Country.

I need not inform your Excellency that His Majesty's Subjects resident at Lisbon have a Church, which by no means corresponds with this limitation; and I am to direct your Excellency to lose no time in protesting, in the strongest terms, against any deterioration of this their rightful privilege.

The other point to which I particularly refer, is the abolition of Private Jurisdictions, which may be construed to involve in Portugal, as it has been construed to involve in Brazil, the extinction of the jurisdiction of the Judge Conservator.

In Brazil, we could found our remonstrance against this extinction of our privilege only upon the Treaty of 1810, which was on the point of expiring. But in Portugal, we hold that privilege by Treaties of ancient date

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and perpetual obligation, and your Excellency must protest against any attempt to abolish it, by inference, from any change in the internal government of Portugal.

I am, &c.

*His Excellency Sir William à Court,*  
G. C. B. &c. &c. &c.

(Signed)

GEORGE CANNING.

## No. 9.

*Mr. Secretary Canning to Sir William à Court.*

(Extract.)

*Foreign Office, July 22, 1826.*

IT is the anxious wish of His Majesty's Government, that nothing may have been done by Sir Charles Stuart, whether under the Commission of the Emperor Don Pedro, or at the solicitation of the Portuguese Authorities, which can be liable, either in Portugal, or throughout Europe, to be misconstrued as an authoritative interference in the internal concerns of Portugal. Should any thing of that sort unluckily have occurred, His Majesty's Government relies confidently on your Excellency, for doing away the impression which it would be calculated to create, by a discreet use of the explanations and declarations, contained in my Despatches to your Excellency, and in those of which I have transmitted Copies for your information.

*His Excellency Sir William à Court,* (Signed) GEORGE CANNING.  
G. C. B. &c. &c. &c.

## No. 10

*Mr. Secretary Canning to Sir Charles Stuart.*

(Extract.)

*Foreign Office, July 22, 1826.*

MY reason for sending off this Despatch by an Extra Packet is to obviate any doubt which might possibly arise in your Excellency's mind, as to the execution of the Instructions contained in my Despatch of the 12th Instant.

I write to your Excellency for the express purpose of repeating His Majesty's pleasure that you return Home forthwith, after delivering into the hands of the Regency the Decrees of the Emperor Don Pedro, and into the hands of M. de Porto Santo, or, in case of M. de Porto Santo's resignation, into those of his Successor, or, in default of a new appointment, into Sir William à Court's hands, to be delivered by him to the proper Minister, at a proper time, the Papers relative to the Commercial Negotiation between Portugal and Brazil, *in whatever state that Negotiation may be.*

It is the desire and determination of His Majesty's Government to avoid, as far as possible, the appearance of any direct interference of British Agency in the establishment of the new order of things in Portugal.

It is therefore His Majesty's positive command, that your Excellency should not protract your stay at Lisbon on any account whatever, nor allow any suggestions or solicitations from any quarter to induce you to delay your return Home.

(Signed)

GEORGE CANNING.

*His Excellency Sir Charles Stuart,*  
G. C. B. &c. &c. &c.

## No. 11.

*Sir Charles Stuart to Mr. Secretary Canning.—(Received July 22.)*

Sir,

*Rio de Janeiro, May 9, 1826.*

I HAVE this moment received from the Minister of Foreign Affairs the accompanying Note, to which I should have thought it unnecessary to call your attention, if, upon comparing it with the one sent Home by His Majesty's

Chargé d'Affaires, I had not observed a material difference between the two Copies, in as much as the Note addressed to me expresses the happiness which His Imperial Majesty will derive from the *support*, in addition to the approbation, of His Britannic Majesty, of the Measures lately adopted by the Court of Brazil for the welfare of the People of Portugal.

Mr. Chamberlain having acknowledged the receipt of the Note transmitted to himself, I have not thought it expedient, upon this occasion, to return any answer to the Viscount de Inhambupe.

I have the honour to be, &c.

*The Right Hon. George Canning,* (Signed) CHARLES STUART.  
&c. &c. &c.

*Enclosure in No. 11.—(Translation.)*

*The Visconde de Inhambupe to Sir Charles Stuart.*

Sir,

*Palace of Rio de Janeiro, May 8, 1826.*

HIS Majesty the Emperor being called upon, definitively, to determine upon the course which it may be most advisable to pursue, with respect to the question of the Succession to the Crown of Portugal, which has devolved upon him by the death of his August Father, the King of Portugal and of the Algarves, and deeming his own retention of the Sovereignty of Portugal, the Algarves, and their Dominions, to be incompatible with the interests of the Empire of Brazil, as well as of those Kingdoms, has been pleased, with a view to promote the welfare thereof, to abdicate and cede the indisputable and inalienable rights, which he has to the Crown of the Portuguese Monarchy, and to the Sovereignty of the said Kingdoms, to the person of his most cherished, esteemed, and well-beloved Daughter, the Lady Princess of the Great Pará, Dona Maria da Gloria, that she may, as reigning Queen thereof, govern them, independent of this Empire, and according to the Constitution which His Imperial Majesty was pleased to give, decree, and command to be sworn to, by his Letter of Law, of the 29th of April of this year. And His Imperial Majesty has, moreover, been pleased to declare, that his August Daughter, the reigning Queen of Portugal, shall not leave the Empire of Brazil until it shall have been officially reported to him, that the Constitution has been sworn to, according to his orders, and that the espousals of the marriage, which it is the intention of the same Lord should take place between her and his much-beloved and esteemed Brother, the most Serene Infant, Don Miguel, shall have been actually celebrated; the said abdication and cession to be null and void, in default of the fulfilment of either of these two conditions.

His Imperial Majesty, the Emperor, has been also pleased, as King of Portugal, to grant, by his Royal Decree of the 27th April, an Amnesty to all Portuguese, who may be in confinement under prosecution, in exile, or sued for political opinions; and He has been further pleased, by His Decree of the preceding day, to confirm and to continue the Regency established by His August Father, until the moment of the installation of the Regency decreed by the Constitutional Charter of the Portuguese Monarchy.

This I have the honour to communicate, for the information of your Excellency, and of your Government, requesting you to be persuaded that the Emperor, my August Master, will be most happy, if these arrangements should meet with the approbation *and support* of His Britannic Majesty, who has given so many proofs of the interest which He takes in the glory and prosperity of the August House of Braganza.

The Undersigned, &c.

(Signed)

VISCONDE DE INHAMBUPE.

*His Excellency Sir Charles Stuart,*  
G. C. B. &c. &c. &c.



*Sir Charles Stuart to Mr. Secretary Canning.—(Received August 9.)*

(Extract)

*Lisbon, July 15, 1826.*

I ARRIVED here on the 7th Instant, and proceeded immediately to Caldas, where I found the Portuguese Regency established.

Upon delivering to Her Royal Highness the Infanta the several Public Acts, which had been entrusted to my care by Her Brother the Emperor, I told her that, as Portuguese Plenipotentiary, I could not refuse to take charge of Papers completing the separation of the two Countries, for which purpose I had left Europe; but that, since they also regulated the internal Government of Portugal, I must wait until I learnt the sentiments of my Government, before I could express an opinion upon that part of their contents.

In the course of several interviews, to which I was admitted during my stay at Caldas, Her Royal Highness was pleased to observe, that nothing could be more natural than my desire not to commit my Government, by any participation in Measures, upon which they had not explained their views, but that I was so well acquainted with the affairs of Portugal, that this consideration would induce her not to withhold her confidence upon any subject connected with the execution of the Emperor's orders. She, therefore, began to state to me, in great detail, the unhappy position in which she was placed, and the embarrassments to which she was exposed, by the divisions among the Regency, and the Ministry, respecting the adoption of a Constitutional Form of Government.

Her Royal Highness added, that she would return immediately to Lisbon, where she should take care that His Imperial Majesty's orders, which she was certain would be enthusiastically received by the whole Nation, should be carried into effect.

I told Her Royal Highness that it appeared, from what I had been enabled to find out during the few hours I was in Lisbon, that the alleged illegality of the different Acts received from Rio de Janeiro was the ground upon which her Opponents were determined to make their stand; that I could therefore only recommend her to meet this charge, by concerting a legal mode of putting them into execution, the moment that the Government should return to the Capital, which we agreed should not be delayed beyond the following day.

The public mind was, in the mean time, greatly agitated by imperfect versions of what had passed, and the intrigues of the various Factions were rendered evident, by the hope of the revival of the Constitution of 1820 on the one side, and by successive attempts to corrupt the troops on the other; while the efforts of the Infanta for the maintenance of order were paralysed, by the hesitation of her Colleagues to adopt the Measures which she recommended, and by the determination of the principal Ministers to choose that moment for tendering their resignation.

Under these circumstances, the Infanta has determined to strengthen herself, by filling up the situation of every Minister who gives in his resignation in writing, and she will insure the tranquillity of the Town, by the nomination of a new Commandant of the Province, and by the arrest of those Persons who were active in exciting the late movement of the Troops.

Her Royal Highness has also written to the Infant Dom Miguel, urging him to take no step until he should have received the Letter addressed to him by the Emperor; and She will wait until the Charter shall have been legally carried into effect, and the necessary unity of action established, which shall place in her hands the power of choosing her own Advisers.

I have confined my language to the tenor of the above-mentioned Proclamation, which has already produced a very beneficial effect, by checking the

exultation of the Liberals, and conciliating the good will of the moderate Royalists; and the favourable change which is rapidly taking place in the public opinion, leaves little doubt upon my mind, that the principle Opponents of the new system will be found in the ranks of the former Party.

(Signed)

CHARLES STUART.

*The Right Honourable George Canning,*  
 &c. &c. &c.

*Enclosure in No. 12.—(Translation.)*

*Proclamation of the Infanta Regent of Portugal.—July 12th, 1826*

**PORTUGUESE!**—The Regency of the Kingdom is about to relieve you from anxiety, and to fix your attention upon Decrees which interest you, generally, and which His Most Faithful Majesty, Dom Pedro the Fourth, has deigned to issue from his Court at Rio Janeiro. With these Decrees will be also published the Constitutional Charter of the Portuguese Monarchy, which the same Sovereign has deigned to decree, and which, according to his intentions, must be sworn to by the three Orders of the State, in order that it may govern the Kingdom of Portugal and its Dependencies. In the mean time the Regency informs you, that this Charter differs essentially from the Constitution produced by infatuation in 1822, and which contained principles incompatible with each other, and condemned by experience. The character of the Constitutional Charter which His Most Faithful Majesty gives you, is quite another thing. It is not a forced concession; it is a voluntary and spontaneous gift of the legitimate power of His Majesty, and matured by his profound and royal wisdom. This Charter tends to terminate the contest between two extreme principles which have agitated the Universe. It summonses all Portuguese to reconciliation, by the same means which have served to reconcile other People; by it are maintained, in all their vigour, the religion of our Fathers, decorum, and the rights and dignity of the Monarchy; all the orders of the State are respected, and all are alike interested in uniting their efforts, to surround and strengthen the Throne, to contribute to the common good, and to secure the preservation and amelioration of the Country, to which they owe their existence, and of the society of which they form a part; the ancient Institutions are adapted and accommodated to our Age, as far as the lapse of seven Centuries will permit; and, finally, this Charter has prototypes among other Nations who are esteemed among the most civilized and the most happy. It is our duty to await tranquilly the execution of this Charter, and of the preparatory Acts which it prescribes. If any among you should, by words or actions, aggravate resentments, excite hatred, or inspire vengeance, and interpose between the provisions of the Law and its execution, he will be considered as a disturber of public order, and as an enemy of the Sovereign and of his Country; and he will be punished with the utmost rigour of the Law. The Regency flatters itself, that the Portuguese people, both from their natural character and for their common interest, will recognise, on this occasion, both what is their most important duty, and the way in which they may become principally useful.

Given at the Palace of Ajuda, this 12th of July, 1826.

(Signed)

THE INFANTA.

(Countersigned)

JOSE JOAQUIM D'ALMEIDA E ARAUJO CORREA DE LA CERDA.

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No. 13.

*Sir William à Court to Mr. Secretary Canning.—(Received August 7th.)*

(Extract.)

*Lisbon, July 29th, 1826.*

YOUR important Despatch of the 17th instant, with its several Enclosures, reached me on Wednesday last.

I made known, without loss of time, to Her Royal Highness The Infanta, the great interest displayed in favour of this Country by His Majesty's Government, and your active endeavours to give a right direction to the policy of Europe upon the present occasion.

The execution of the Emperor's Orders is gradually proceeding, and perhaps as rapidly as could be expected, considering the efforts made to retard it. The swearing to the Constitution commences on Monday next.

*The Right Hon. George Canning,*  
*&c. &c. &c.*

(Signed)

WILLIAM à COURT.

No. 14.

*Sir William à Court to Mr. Secretary Canning.—(Received August 19th.)*

(Extract.)

*Lisbon, August 4th, 1826.*

YOUR Despatch, forwarded by the Extra Packet, reached me about an hour after the "Lyra" had sailed with my last Letters.

In obedience to your Instructions, Sir Charles Stuart is making his preparations for departure, and will sail the beginning of next week.

It is impossible to say that there has been no interference on his part in the affairs of this Country. There *has* been interference—a very direct and active interference, but in no other character, than in that which he possesses of Portuguese Plenipotentiary. This distinction has always been most carefully marked on his side, and it has received additional force from the line which I myself adopted. The difference in the parts which we were called upon to play has never been mistaken, either by this Government or by my Colleagues; and you may be assured, Sir, whatever may be said of the Portuguese Plenipotentiary, the British Ambassador is responsible for nothing. I think, indeed, I may safely assert, that the British Government has never been committed, either by Sir Charles Stuart or myself.

I shall, nevertheless, bear in mind the concluding paragraph of your Letter, and, by a discreet use of the explanations and declarations contained in your several Despatches, endeavour to do away with every impression of the sort, should I find any such entertained.

*The Right Hon. George Canning,*  
*&c. &c. &c.*

(Signed)

WILLIAM à COURT.

*Communications from Sir Henry Wellesley, respecting the Engagements entered into by the Infant Don Miguel, at Vienna, on his assuming the Regency of Portugal.*

No. 15.

*Sir Henry Wellesley to The Earl of Dudley.—(Received November 14.)*

(Extract.)

Vienna, November 5, 1827.

I HAVE the honour to forward to your Lordship a Copy of a Note which I have received from Prince Metternich, forwarding to me Copies (which are likewise enclosed) of the Protocols of the Conferences, which have been held here, relative to the affairs of Portugal.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

(Signed) H. WELLESLEY.

*Enclosure in No. 15.*

*Prince Metternich to Sir Henry Wellesley.*

Vienne, le 29<sup>e</sup> Octobre, 1827.

LE Prince de Metternich a l'honneur de remettre ci-joint à Son Excellence Monsieur l'Ambassadeur d'Angleterre, des Copies vidimées des Protocoles des Trois Conférences, relatives aux affaires du Portugal, auxquelles Monsieur l'Ambassadeur lui a fait l'honneur d'assister chez lui le 18, 20, et 23 Octobre, et il saisit, &c.

*S. E. Mons. L'Ambassadeur d'Angleterre.*

*Sub-Enclosure A. in No. 15.*

*PROTOCOLE.—Vienne, le 18<sup>e</sup> Octobre, 1827.*

*Présents.*

De la part de  
l'Autriche:

*M. le Prince de  
Metternich.*

*M. le Comte de  
Lebzeltern.*

*M. le Chevalier  
de Neumann.*

*M. le Comte Henri  
de Bombelles.*

De la part de  
l'Angleterre:

*M. l'Ambassadeur  
d'Angleterre.*

De la part de Son Altesse  
Royale l'Infant Dom Miguel:

*M. le Baron de  
Villa-Secca.*

*M. le Comte de  
Villa-Real.*

M. le Prince de Metternich ayant invité M. l'Ambassadeur d'Angleterre et MM. les Plénipotentiaires Portugais à se réunir chez lui le 18 Octobre, et ces Messieurs s'étant rendus à son invitation, il leur proposa de consigner dans un Protocole Officiel, le résultat des Négociations confidentielles qui avoient eu lieu entre lui et Messieurs de Villa-Secca et de Villa-Real, depuis l'époque de son retour à Vienne, relativement au départ de l'Infant, au voyage de ce Prince, et à la ligne de conduite qu'il se proposait de suivre à son arrivée à

Lisbonne; et M. l'Ambassadeur d'Angleterre ainsi que MM. les Plénipotentiaires Portugais, s'étant déclarés d'accord avec cette proposition, il fut décidé qu'on déposerait au Protocole de la présente Conférence les Pièces suivantes, savoir :

1.—Une Copie de la Note de M. le Marquis de Rezende à M. le Prince de Metternich, en date du 19 Septembre, 1827, qui a servi de point de départ dans la présente Négociation.—Par cette Note M. l'Envoyé du Brésil annonce officiellement au Cabinet de Vienne que l'Empereur, Dom Pedro, Son Maître, par un Décrêt en date du 3 Juillet, *a conféré à S. A. R., Mg<sup>r</sup>. l'Infant Dom Miguel, avec le titre de Son Lieutenant en Portugal, la Régence du dit Royaume, aux termes des Lois existantes dans cet Etat, et conformément aux Institutions données par l'Empereur, Son Auguste Frère, à la Monarchie Portugaise.*

2.—Une Traduction du susdit Décrêt du 3 Juillet, de l'Empereur Dom Pedro, à Son Altesse Royale l'Infant Dom Miguel.

3.—Une Traduction de la Lettre d'accompagnement de ce Souverain à l'Infant, Son Frère.

4.—Une Traduction de la Lettre de l'Empereur Dom Pedro au Roi d'Angleterre.

5.—Une Traduction de la Lettre de l'Empereur Dom Pedro à Sa Majesté l'Empereur d'Autriche.

6.—Une Copie de la Dépêche, que M. le Prince de Metternich adresse aujourd'hui à M. le Prince Esterhazy à Londres, pour charger cet Ambassadeur de porter à la connaissance du Gouvernement Britannique la détermination que vient de prendre l'Infant de faire venir sur-le-champ des Vaisseaux Portugais en Angleterre, où Il se rendrait directement de Son côté, pour pouvoir s'y embarquer le plus promptement possible pour le Portugal.—Cette Dépêche, qui renferme un Exposé historique et fidèle de toute la Négociation, relative à la situation présente et à venir de l'Infant, ainsi que des dernières déterminations auxquelles s'est arrêté ce Prince, avait été lue dans une réunion confidentielle qui a eu lieu le 16 Octobre dans la soirée chez M. le Prince de Metternich, et à laquelle sont intervenus M. l'Ambassadeur d'Angleterre et Messieurs les Plénipotentiaires Portugais. Ce n'est qu'après avoir obtenu leur entier assentiment, que cette Dépêche a été expédiée aujourd'hui à Londres.

MM. les Plénipotentiaires Portugais ont annoncé à la Conférence, que l'Infant leur avait également fait part de ses dernières résolutions, relativement à son voyage; que Son Altesse Royale leur avait donné l'ordre de préparer la rédaction des Lettres, qu'elle voulait adresser en conséquence sans délai à l'Empereur Dom Pedro, Son Frère, à Sa Majesté le Roi d'Angleterre, et à l'Infante, sa Sœur; qu'Elle leur avait également donné celui de rédiger la Lettre à l'Infante de manière à ce qu'elle puisse être rendue publique, et à ce qu'elle ne puisse en même tems laisser aucun doute sur la ferme volonté de ce Prince, en acceptant la Lieutenance du Royaume que l'Empereur, Son Frère, vient de lui confier, d'en maintenir religieusement les Institutions; de vouer le passé à un entier oubli, mais de contenir en même tems avec force et fermeté, l'esprit de parti et de faction qui a trop long tems agité le Portugal.

Tous les Membres de la Conférence n'ont pu que rendre unanimement la plus entière justice à des dispositions aussi louables de la part de l'Infant; M. le Prince de Metternich a personnellement ajouté, que du moment où les Lettres de l'Infant seraient écrites et signées, il s'offrait de les faire parvenir promptement en Angleterre par M. de Neumann, qui n'attendait que leur expédition pour partir, et d'en transmettre des Duplicats en Portugal par un Courier du Cabinet qu'il se proposait d'expédier incessamment par Madrid à Lisbonne.—MM. les Plénipotentiaires Portugais ayant accepté ces offres, le Prince de Metternich a cru devoir observer encore à cette occasion, que l'Infant devait, sans aucun doute, prendre, avant tout, dans les Lettres qu'Il se propose d'adresser au Roi d'Angleterre et à l'Infante Sa Sœur, le titre de Lieutenant du Royaume, puisque c'est sous ce titre, que l'Empereur lui en confie la Régence; mais qu'il lui paraissait convenable et même nécessaire, que l'Infant pris conjointement avec le titre de Lieutenant, celui de

Régent du Royaume, attendu qu'étant appelé par le Décret de l'Empereur Dom Pedro du 3 Juillet, à succéder à l'Infante, sa Sœur, dans l'exercice de la Régence,—il serait également contraire à sa dignité personnelle, à celle de la Nation Portugaise, et à la volonté de l'Empereur Dom Pedro, qu'Il prit un titre au-dessous de celui que l'Infante a porté ; qu'il ne pouvait d'ailleurs exister aucun doute sur les intentions de ce Souverain à cet égard ; qu'elles ressortaient clairement de la teneur de la Note du Marquis de Rezende, du 19 Septembre, de celle des Instructions dont cet Envoyé était muni, de celle enfin de la Lettre de l'Empereur Dom Pedro au Roi d'Angleterre, puisque dans ces différentes Pièces il est explicitement ou implicitement dit, que ce Souverain *confère la Régence à l'Infant*. — Il n'y a aucun doute enfin, que le Décret de l'Empereur Dom Pedro à l'Infant, Son Frère, en date du 3 Juillet, porterait sur l'adresse l'inscription : " A l'Infant Dom Miguel, Régent du Royaume de Portugal."

M. l'Ambassadeur d'Angleterre a observé qu'étant informé déjà depuis plusieurs semaines de l'opinion du Cabinet de Vienne à cet égard, il en avait rendu compte à son Gouvernement ; qu'à la vérité, il n'avait point encore reçu de réponse sur cet objet, mais qu'il se flattait qu'elle serait conforme à l'opinion du Cabinet Autrichien. Quant à MM. les Plénipotentiaires Portugais, ils se sont prononcés en faveur de celle que venait d'énoncer M. le Prince de Metternich, et ils se sont chargés d'en rendre compte à l'Infant, en observant que, dans l'intérêt du Portugal, il était sans aucun doute désirable, que l'Infant n'hésitât point à prendre, conformément aux intentions de l'Empereur Dom Pedro, Son Frère, le titre de Régent du Royaume. MM. de Villa-Secca et de Villa-Real ont ajouté, qu'ils avaient l'ordre de l'Infant de déclarer que, pénétré de reconnaissance pour les bontés paternelles que Lui avait constamment témoignées Sa Majesté l'Empereur d'Autriche depuis les premiers moments de son arrivée à Vienne, et plus particulièrement encore dans cette dernière circonstance, Son Altesse Royale se ferait un devoir d'en exprimer Elle-même verbalement sa sensible et respectueuse reconnaissance à Sa Majesté Impériale, mais qu'Elle tenait à ce que ses sentimens à cet égard fussent portés à la connaissance de la Conférence.

M. le Prince de Metternich s'est chargé, avec empressement, de se rendre en attendant auprès de l'Empereur Son Auguste Maître l'organe des sentimens de Son Altesse Royale, en ajoutant que Sa Majesté Impériale en agréerait l'expression avec la plus sincère satisfaction.

(Signé) METTERNICH.  
LEBZELTERN.  
NEUMANN.  
H. DE BOMBELLES.

H. WELLESLEY.  
CONDE DE VILLA-REAL.  
BARAO DE VILLA-SECCA.

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*Annex 1 to Sub-Enclosure A. in No. 15.*

*M. le Marquis de Rezende à M. le Prince de Metternich.*

*Vienne, le 19 Septembre, 1837.*

LE Soussigné, Envoyé Extraordinaire et Ministre Plénipotentiaire de Sa Majesté l'Empereur du Brésil, est autorisé, par un Ordre spécial de son Auguste Maître, à s'adresser à M. le Prince de Metternich, Chancelier de Cour et d'Etat de Sa Majesté Impériale et Royale Apostolique, pour notifier à Son Altesse la Résolution Souveraine du 3 Juillet de cette année, par laquelle Sa Majesté Très Fidèle a conféré à Son Altesse Royale Mgr. l'Infant Dom Miguel, avec le titre de son Lieutenant en Portugal, la Régence du dit Royaume, aux termes des Lois existantes dans cet Etat, et conformément aux Institutions données par Son auguste Frère à la Monarchie Portugaise.

Le Soussigné n'hésite pas à croire, que Sa Majesté Impériale et Royale Apostolique, et Son Gouvernement, s'empresseront de reconnoître cet acte

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de Sa Majesté Très Fidèle, et de prêter Sa co-opération efficace, pour qu'il puisse recevoir par le plus prompt départ de Monseigneur l'Infant Dom Miguel pour le Portugal, son entière et pleine exécution.

Le Soussigné saisit cette occasion, etc.

S. E. Le Prince de Metternich.

(Signé)

REZENDE.

*Annex 2 to Sub-Enclosure A. in No. 15.—(Traduction.)*

*Décret de Sa Majesté l'Empereur Dom Pedro à Son Altesse Royale M<sup>te</sup>. l'Infant Dom Miguel.*

PORTE par des motifs dignes de Ma Royale considération, et attendu que la sûreté de l'Etat doit être la loi suprême pour tout Souverain qui a à cœur le bien être et le bonheur de ses Sujets : et ayant d'ailleurs en vue les qualités, l'activité, et la fermeté de caractère qui distinguent Mon très cher et aimé Frère, l'Infant D. Miguel ; je le nomme Mon Lieutenant, lui accordant tous les pouvoirs qui, comme Roi de Portugal et des Algarves, m'appartiennent, et qui se trouvent désignés dans la Charte Constitutionnelle, afin qu'il gouverne et régie les mêmes Royaumes conformément aux dispositions de la susdite Charte.

L'Infant Dom Miguel, mon très cher et aimé Frère, l'exécutera ainsi.

Donné au Palais de Rio Janeiro, le 3 Juillet, 1827.

S. A. R. L'Infant Dom Miguel.

(Signé)

R.

*Annex 3 to Sub-Enclosure A. in No. 15.—(Traduction.)*

*Sa Majesté l'Empereur Dom Pedro à Son Altesse Royale M<sup>gr</sup>. l'Infant Dom Miguel.*

Mon cher Frère,

Rio Janeiro, le 3 Juillet, 1827.

J'AI la satisfaction de vous annoncer, que prenant en considération votre conduite régulière et votre loyauté reconnue, je viens de vous nommer mon Lieutenant dans le Royaume de Portugal, afin que vous le gouverniez en mon nom, et d'après la Constitution que j'ai octroyée au dit Royaume. Je m'attends, mon cher Frère, à ce que vous envisagiez cette résolution comme la plus grande preuve que je puisse vous donner de ma confiance, et de l'amour que je vous porte.

S. A. R. L'Infant Dom Miguel.

(Signé)

PEDRO.

*Annex 4 to Sub-Enclosure A. in No. 15.—(Traduction.)*

*Sa Majesté l'Empereur Dom Pedro à Sa Majesté Britannique.*

Monsieur Mon Frère et Cousin,

Rio Janeiro, le 3 Juillet, 1827.

LA nécessité de rétablir l'ordre en Portugal et de consolider le Système Constitutionnel qui y a été juré, m'oblige, comme Roi légitime du Pays, d'ordonner, sous la date d'aujourd'hui, à l'Infant Dom Miguel, mon Frère et mon gendre, d'aller gouverner ce Royaume en mon nom, en qualité de mon Lieutenant ; et dans la confiance que je place en l'amitié inaltérable qui subsiste entre nous, je supplie Votre Majesté de m'aider, de Son côté, non seulement à faire que cette Regence entre promptement en fonctions, mais encore à effectuer, que la Charte Constitutionnelle, octroyée par moi et jurée dans ce pays, devienne la Loi Fondamentale du Royaume.

Je saisis, &c.

(Signé)

PEDRO.

*Sa Majesté Britannique.*

*Annex 5 to Sub-Enclosure A. in No. 15.—(Traduction.)**Sa Majesté l'Empereur Dom Pedro à Sa Majesté Impériale et Royale Apostolique.*

Mon très-cher Beau-Père et Ami,

*Rio Janeiro, le 3 Juillet, 1827.*

LES évènements récents et inattendus, en Portugal, et la conduite ferme, constante, et loyale, que mon Frère, l'Infant Dom Miguel, a démontrée auprès de Votre Majesté Impériale et Royale Apostolique, me mettent dans le cas de lui ordonner de partir pour Le Portugal, afin qu'il gouverne ce Royaume en mon nom, et en qualité de mon Lieutenant. Convaincu ainsi que je le suis, que cette mesure aura l'approbation de Votre Majesté, je La prie de m'aider tant qu'il sera en Son pouvoir, en Lui conseillant et d'exécuter cet ordre et de gouverner ce Royaume en conformité de la Charte Constitutionnelle que je lui ai donnée, et qui a été jurée par Lui et par la totalité de mes Sujets Portugais.

En demandant à Votre Majesté cet aide, je me considérerai heureux, &c. &c.

*Sa Majesté Impériale et Royale Apostolique.*

(Signé) PEDRO.

*(Annex 6 to Sub-Enclosure A. in No. 15.)**Le Prince de Metternich à Son Altesse M. le Prince Esterhazy.**Vienne, le 18 Octobre, 1827.*

PAR ma Dépêche du 8 Octobre j'ai eu l'honneur de vous informer de l'arrivée de M. le Comte de Villa-Real, des dispositions favorables dans lesquelles je l'avais trouvé, et de l'entier assentiment que cet Ambassadeur avait donné à notre travail préparatoire sur toutes les questions relatives à la position présente et future de l'Infant Dom Miguel. M. de Villa-Real ayant également trouvé ce travail conforme aux principes et aux vœux du Gouvernement Britannique, mon premier soin fut de convenir avec lui et avec M. le Baron de Villa-Secca de la marche à suivre pour engager l'Infant à nous faire connaître le plutôt possible ses intentions, relativement à son départ, à son voyage, et à la ligne de conduite qu'il se proposait de suivre à son arrivée en Portugal. Je crus devoir proposer en conséquence à ces deux Messieurs, de prendre pour point de départ, la Note ci-jointe en Copie, que m'avait adressée M. le Marquis de Rezende, Envoyé du Brésil à la Cour de Vienne, pour me notifier les déterminations qu'avait prises l'Empereur, son Maître, le 3 Juillet dernier, à l'égard de l'Infant Dom Miguel, son Frère, et pour réclamer, en même tems, la co-opération efficace de l'Autriche, dans le but d'engager l'Infant à se soumettre avec une entière déférence aux ordres de l'Empereur Dom Pedro, et à hâter son départ pour Le Portugal, afin que le Décret du 3 Juillet puisse y recevoir le plutôt possible, sa pleine et entière exécution. Nous convînmes ensuite, que je me chargerais de porter les premières paroles à l'Infant, que j'inviterais ce Prince, conformément aux vœux de l'Empereur, Son Frère, à nous faire connaître ses projets relativement à son départ, et à nommer sans délai MM. de Villa-Secca et de Villa-Real, pour régler et arrêter en son nom avec le Cabinet de Vienne, toutes les dispositions qui y seraient relatives. Nous convinmes enfin, que nous nous réunirions tous les jours, pour nous rendre compte mutuellement et confidentiellement du résultat de nos démarches, pour nous concerter sur celles que les circonstances pourraient exiger, et que nous tiendrions un journal de nos réunions auquel nous éviterions, toutefois, dans l'intérêt de l'Infant, et pour laisser au Prince la faculté d'énoncer plus librement son opinion et ses vœux, de donner le caractère officiel d'un Protocole de Conférence.

Cette marche ayant été arrêtée, je me rendis le 6 de ce mois chez l'Infant, pour Lui représenter à quel point il était urgent qu'il voulût bien nous faire



connaître, le plutôt possible, ses intentions relativement à son voyage.— J'eus l'honneur de Lui observer que, pour régler et arrêter définitivement tout ce qui était relatif à son départ, il était désirable qu'il chargeât les Personnes, qu'il jugerait les plus dignes de sa confiance, de s'entendre sur cet objet avec moi ;—que M. le Baron de Villa-Secca, et M. le Comte de Villa-Real, qui y avaient l'un et l'autre des droits par leur fidélité et leur dévouement à sa personne, me paraissaient devoir fixer de préférence son choix ; que, s'il consentait à désigner ces deux Messieurs pour traiter avec moi, son départ serait le premier objet, dont nous aurions à nous occuper ; qu'il devenait tous les jours plus pressant d'en fixer l'époque, qu'il ne l'était pas moins de connaître la direction que désirait prendre Son Altesse Royale pour se rendre en Portugal, afin de pouvoir Lui en préparer les moyens ; mais que je ne pouvais lui dissimuler que, quelle que fût celle pour laquelle Elle croirait devoir se déterminer, l'Empereur cependant ne pourrait, dans aucun cas, consentir à son passage par l'Espagne, attendu, qu'outre les graves inconvéniens qui dans les circonstances actuelles devaient l'en détourner, il ne pourrait se le permettre sans agir contre les vœux de l'Empereur Dom Pedro, Son Frère, et contre l'opinion unanime de toutes les Puissances de l'Europe.— L'Infant, sans me faire aucune objection sur les propositions et les observations, que je venais de lui soumettre, se borna à me répondre, qu'il allait nommer sur-le-champ M. le Comte de Villa-Real et M. le Baron de Villa-Secca, pour s'entendre et se concerter avec moi sur les différens objets, dont je venais de l'entretenir. Il en donna effectivement le même jour l'ordre à ces deux Messieurs, avec lesquels je m'empressai de mon côté de me réunir dans le but que nous nous étions proposé. Le résultat de nos premières réunions, qui eurent, comme de raison, pour principal objet, celui de fixer l'époque du départ de l'Infant et de déterminer la direction qu'il devait prendre pour se rendre le plus promptement possible en Portugal, nous permit bientôt d'entrevoir, et même de nous convaincre que, si l'Infant avait eu primitivement le projet de passer par l'Espagne pour rentrer en Portugal, il Lui avait suffi, pour renoncer à ce projet, d'apprendre que l'Empereur Dom Pedro, Son Frère, et Sa Majesté l'Empereur notre auguste Maître y étaient contraires. Je Lui dois au reste la justice d'observer ici, que ce Prince, lors qu'il s'était entretenu avec ses alentours de son désir, de prendre de préférence la route d'Espagne comme la plus courte et la plus directe, n'avait point hésité à donner en même tems les assurances les plus positives de sa ferme volonté de ne laisser approcher de sa personne aucun Réfugié Portugais. Mais si nous fûmes bientôt tranquilisés sur ce premier projet de l'Infant, nous ne tardâmes pas à nous appercevoir d'un autre côté, que l'esprit de ce Prince était fortement préoccupé de deux idées, qui avoient toute la valeur de deux déterminations positives ; nommément, celle de ne s'embarquer que sur un vaisseau Portugais, et de ne pas toucher terre entre l'Autriche et le Portugal. Du moment où j'eus acquis cette conviction, je m'empressai d'en rendre compte à l'Empereur, notre auguste Maître, et je reçus de Sa Majesté l'ordre d'engager MM. de Villa-Real et de Villa-Secca à représenter en son nom, à l'Infant, qu'elle concevait le désir qu'il avait exprimé de pouvoir se rendre de préférence à Lisbonne sur des Vaisseaux Portugais ; et que, si ce projet était exécutable, l'Empereur ne s'y opposerait pas ; mais qu'il s'intéressait trop sincèrement à l'Infant, pour ne pas se faire un devoir de lui en démontrer l'impossibilité, vû la perte de tems immense et irréparable qui s'y rattacherait ; qu'avant que deux Vaisseaux de guerre Portugais pussent être armés à Lisbonne et rendus à Livourne pour y recevoir l'Infant, il s'écoulerait près de trois mois, auxquels il faudrait ajouter encore au moins un mois pour la traversée de Livourne à Lisbonne, qui, dans cette saison est incertaine et longue ; que, par conséquent l'Infant ne pourrait pas être rendu à sa destination avant 4 ou 5 mois ; qu'un aussi long retard, en prolongeant l'incertitude en Portugal, compromettrait infailliblement la tranquillité intérieure de ce Royaume, et peut-être même l'existence politique de ce Prince, qui ne saurait différer impunément son arrivée à Lisbonne, chaque jour de retard pouvant rendre son début plus difficile et même plus dangereux ; qu'il fallait donc avant tout s'occuper des moyens de l'y faire arriver dans le plus court délai

possible; qu'Il pouvait s'embarquer soit dans un des ports des mers du midi, soit dans un port des mers du nord;—que de la part de l'Autriche, on ne s'opposerait point à son désir de s'embarquer de préférence en Italie, s'il était possible de Lui en fournir les moyens; mais que ces moyens n'existaient pas, et que, pour les préparer, il faudrait plusieurs semaines, ce qui entraînerait un retard presque aussi long que celui auquel l'Infant devrait se soumettre, dans le cas où il se déciderait à faire venir à Livourne des Bâtimens Portugais; que tout retard à son voyage pouvant avoir les plus graves inconvéniens, et l'Empereur, se trouvant appelé par le véritable intérêt qu'Il porte à ce Prince, à ne pas permettre qu'il compromette ainsi gratuitement son existence personnelle et la tranquillité intérieure du Royaume, dont son auguste Frère vient de lui confier la Régence, Sa Majesté ne pouvait en conscience Lui donner qu'un conseil, celui de ne pas hésiter un instant à s'embarquer sans délai dans un des ports d'Angleterre ou des Pays-Bas; que l'Infant devait donc nécessairement opter entre ces deux pays, comme les plus rapprochés du but de son voyage, en prenant en considération que, s'il passait par La France et par L'Angleterre, il ne pourrait point se dispenser de s'arrêter à Paris et à Londres, pour y présenter ses hommages à Sa Majesté Très Chrétienne et à Sa Majesté Britannique; que, d'un autre côté, en s'embarquant dans un des ports du Royaume des Pays-Bas, il pourrait, il est vrai, se rendre directement à Lisbonne et y arriver plus promptement; mais qu'il perdrait une occasion favorable de voir le Roi d'Angleterre, de se concilier sa bienveillance et de réclamer personnellement son appui que l'Empereur Dom Pedro, Son Frère, a sollicité dernièrement pour Lui dans la Lettre qu'il a adressée le 3 Juillet à Sa Majesté Britannique.

MM. les Plénipotentiaires Portugais s'étant chargés de porter à la connaissance de l'Infant les conseils paternels que Sa Majesté l'Empereur notre auguste Maître croyait devoir lui donner dans une circonstance aussi importante pour son avenir,—ce fut le 9 Octobre dans la soirée, qu'ils s'acquittèrent de cette commission. L'Infant les écouta avec la plus sérieuse attention mais il n'hésita point à leur déclarer, que les considérations qu'on venait de lui soumettre, ne changeaient rien à sa détermination, qu'il était fermement résolu à ne s'embarquer que sur un Vaisseau Portugais pour se rendre directement à Lisbonne, et que, quant au retard qui en résulterait, on ne devait pas craindre, qu'il influât sur la tranquillité intérieure du Portugal; qu'il écrirait et qu'il répondait qu'elle ne serait point troublée. Cette déclaration de l'Infant rendant toute délibération ultérieure inutile, je déclarai, de mon côté, à MM. les Plénipotentiaires Portugais, que j'allais la porter sur-le-champ à la connaissance de l'Empereur. Sa Majesté se décida alors à parler Elle-même à l'Infant, et Elle eut en effet avec ce Prince, le 12 Octobre, une conversation assez longue, dans laquelle Elle reproduisit tous les argumens et tous les motifs qui avaient été développés en son nom deux jours auparavant à l'Infant, par MM. les Plénipotentiaires Portugais, pour lui faire sentir les graves inconvéniens et même les dangers, auxquels il s'exposerait, s'il persistait à ne vouloir s'embarquer que dans un des ports des Etats Autrichiens et sur un Vaisseau Portugais, vû le retard de plusieurs mois, qu'éprouverait alors nécessairement son départ et par conséquent son arrivée à Lisbonne. L'Empereur représenta vivement à l'Infant, qu'un Souverain, et à plus forte raison, un Régent, qui était appelé à venir prendre les rênes du Gouvernement, ne pouvait trop se hâter de se rendre au milieu de son peuple; qu'il était par conséquent de son devoir de choisir de préférence la route la plus directe et la plus courte, et que, s'il persistait à s'y refuser, il s'exposerait à se voir soupçonné de manquer à cet égard d'empressement, et de vouloir prolonger son séjour à Vienne pour son plaisir. L'Infant ayant, malgré ces sages représentations, persisté dans sa résistance, l'Empereur Lui demanda, s'il avait peut-être quelque répugnance à s'embarquer sur un Vaisseau Anglais? L'Infant répondit, qu'il n'avait aucune répugnance pour l'Angleterre; qu'il savait que cette Puissance était dans les meilleurs rapports avec l'Empereur, Son Frère, qu'Elle était d'ailleurs l'Alliée naturelle du Portugal; qu'il désirait sincèrement être bien avec Elle,

(et il a répété plusieurs fois cette dernière phrase dans sa conversation avec l'Empereur,) mais qu'il avait le sentiment, qu'en consentant à s'embarquer sur un vaisseau étranger, il heurterait l'opinion et blesserait d'une manière sensible l'amour propre national ; que c'était par cette raison, qu'il était décidé à ne s'embarquer que sur un Vaisseau Portugais, pour se rendre directement à Lisbonne sans toucher aucun territoire étranger. L'Infant ajouta spontanément qu'il était également très décidé à maintenir en Portugal la Charte qu'il avait jurée ; que Sa Majesté pouvait être sans inquiétude à cet égard, et qu'il la priait enfin de croire que son cœur était pénétré de reconnaissance pour les bontés dont Elle l'avait comblé. L'Empereur voyant que l'Infant était pour ce moment bien déterminé à ne point céder, Sa Majesté l'engagea à réfléchir sérieusement encore sur la conversation qu'elle venait d'avoir avec lui, et à n'énoncer, en attendant, aucune détermination définitive sur une question aussi grave et aussi compromettante pour son avenir ; l'Empereur me donna en même tems l'ordre de m'assurer par moi-même, si l'Infant, après avoir plus mûrement réfléchi sur sa position, ne sentirait peut-être pas la nécessité de se rendre aux conseils de la sagesse et de la raison.

Nous voyant arrêtés ainsi dans notre marche par la résistance inattendue que nous avons rencontrée dans ce jeune Prince, je me décidai à faire part avant tout, confidentiellement et dans le plus grand détail, à M. l'Ambassadeur d'Angleterre, (que j'avais préalablement informé de l'objet et du but de mes Conférences confidentielles avec MM. les Plénipotentiaires Portugais :) de tout ce qui s'était passé entr'eux et moi, et entre Sa Majesté et l'Infant. J'invitai ensuite Sir Henry Wellesley à venir se réunir le lendemain à ces Messieurs et à moi, pour prendre ensemble en considération les moyens que nous pourrions tenter encore pour vaincre la résistance de l'Infant, et dans le cas où nous n'y réussirions pas, pour nous concerter sur les mesures que, d'accord avec son Gouvernement, dont nous étions bien décidés à ne point nous séparer dans cette circonstance, il serait nécessaire d'adopter sur-le-champ, pour ne pas prolonger plus long tems en Portugal un état d'incertitude aussi compromettant. Toutes les opinions s'étant réunies sur les graves inconvéniens auxquels s'exposerait l'Infant, s'il persistait à ne vouloir pas passer par l'Angleterre, et en même tems sur l'avantage qu'il y aurait à ce que j'eusse sur cet objet une dernière explication catégorique avec ce Prince, il fut décidé que je l'aurais le jour même à 2 heures ; comme j'étais indisposé, l'Infant voulut bien prendre la peine de se rendre chez moi sur mon invitation. Je lui demandai la permission d'admettre en tiers le Comte de Bombelles, qui a été antérieurement attaché à sa personne en qualité de Chambellan, qu'il honore de sa bienveillance et qui est d'ailleurs destiné à accompagner ce Prince à Lisbonne, où il déploiera le caractère de Ministre Plénipotentiaire et Envoyé Extraordinaire de Sa Majesté l'Empereur.—L'Infant y ayant consenti, nous eumes ensemble la conversation dont je vais vous rendre un compte succinct, mais exact.

Je commençai par représenter à l'Infant, que nous avions perdu jusqu'ici un tems utile et précieux ; qu'en Europe, et nommément en Portugal et en Angleterre, on ne saurait à quelle cause attribuer le retard prolongé qu'éprouvait son départ, que je ne pouvais me permettre de garder à cet égard plus long-tems le silence, surtout vis-a-vis du Cabinet Britannique, qui s'était si franchement réuni à l'Autriche dans les intérêts de l'Infant, and dont il était lui-même personnellement si intéressé à se concilier la bienveillance et l'appui. Je reproduisis alors à ce Prince les argumens et les considérations les plus propres à l'ébranler ; je lui déclarai sans réserve que, dans sa position il n'avait que deux partis à prendre ; ou celui de se décider à faire venir sur-le-champ un Vaisseau de guerre Portugais en Angleterre, où il se rendrait directement de son côté, pour s'y embarquer le plutôt possible ; ou celui d'attendre à Vienne les décisions ultérieures de l'Empereur Dom Pedro, auquel les Cabinets de Vienne et de Londres seraient dans le cas de faire part des motifs qui auraient engagé l'Infant à ne pas se soumettre sur le champ à ses ordres ; j'ajoutai que, s'il se décidait pour la première alternative, j'étais prêt à expédier un Courier à Londres pour en informer le Gouvernement Britannique, et que,

sans vouloir me permettre de préjuger ses décisions, je ne doutais point, qu'il ne se prêtât volontiers à seconder à cet égard ses desirs; je finis par rappeler à l'Infant le prix que mettrait l'Empereur à lui voir suivre avec confiance ses conseils qui lui avaient été jusqu'ici si utiles, et je ne lui dissimulai point, que Sa Majesté étoit profondément affectée de la résistance qu'il leur opposait.

Je ne tardai point à m'apercevoir que j'avois eu le bonheur de faire sur l'Infant une impression profonde; il étoit visiblement ébranlé, et, après quelques instans de réflexions, il céda enfin aux conseils de l'amitié et de la raison. Dès ce moment la conversation de l'Infant devint vive et animée, il s'exprima envers moi avec autant de franchise et de naturel, qu'il avoit mis jusques là de réserve dans ses réponses. Il me dit, qu'il étoit prêt à se rendre en Angleterre, pour s'y embarquer le plutôt possible sur un Vaisseau Portugais, qu'il donnerait en conséquence les ordres nécessaires et qu'il me priait d'écrire de mon côté en Angleterre et en Portugal pour en presser l'exécution; qu'il croyoit devoir à la Nation Portugaise et se devoir à lui-même de ne pas rentrer dans sa Patrie sous un autre pavillon que sous le pavillon Portugais. Dans le courant de cette conversation, il ne disconvint pas qu'il avoit redouté de passer par l'Angleterre, parcequ'il savoit qu'on y avoit eu contre lui de fortes préventions, et qu'il craignoit d'y être mal reçu: il commença ensuite spontanément à me parler avec chaleur de la ligne de conduite qu'il se proposoit de suivre à son arrivée à Lisbonne, et je fus surpris, je l'avoue, de la rectitude des principes et de la sagesse des vues qu'il me développa, avec un ordre et une clarté remarquables. La manière dont l'Infant s'est expliqué vis-à-vis de moi dans cette circonstance, ne me permet pas de douter, qu'il est dans les meilleures dispositions, et qu'il est non-seulement fermement résolu à maintenir la Charte, mais qu'il en sent même l'importance et la nécessité. En me quittant, il me pria de porter ses dernières déterminations à la connaissance de l'Empereur, ce que je m'empressai de faire, et il me demanda ensuite de vouloir bien m'occuper avec MM. les Ministres Portugais de toutes les dispositions relatives à son départ, ce que nous venons de faire, et ce dont j'aurai l'honneur de vous entretenir dans une Dépêche dont M. de Neumann sera porteur.

Tel est mon Prince, le récit fidèle de ce qui s'est passé ici avec l'Infant, depuis le moment de l'arrivée de M. de Villa Real; si la résistance, qu'il nous a opposée dans le principe, est regrettable sous le rapport surtout de la perte de tems qu'elle a entraînée, elle a d'un autre côté l'avantage de nous offrir une véritable garantie de la sincérité des intentions de ce jeune Prince, qui n'a cédé que par conviction, et qui, du moment où il a été convaincu, a manifesté les dispositions les plus favorables, et les principes les plus conformes à nos vœux. C'est par un sentiment d'amour propre national peut-être exagéré, mais louable en lui-même, qu'il a tenu fortement à arriver à Lisbonne sur un Vaisseau Portugais, et sous ce rapport sa résistance est excusable. J'ai au reste mis tous mes soins à rassurer entièrement l'Infant sur la manière dont il serait reçu en Angleterre. Je lui ai promis que l'Empereur le recommanderait particulièrement à la bienveillance personnelle du Roi, et Sa Majesté m'a effectivement donné l'ordre de charger expressément Votre Altesse de mettre tous ses soins à préparer à ce jeune Prince un accueil favorable et bienveillant, tant de la part du Roi, que de celle de son Gouvernement.

Votre Altesse est autorisée à communiquer la présente Dépêche, sans aucune réserve, à M. le Principal Secrétaire d'Etat.

Recevez, &c.

S. A. Mons<sup>r</sup>. Le Prince Esterhazy.

(Signé)

METTERNICH.

*Sub-Enclosure, B in No. 15.*

**PROTOCOLE.** Vienne, le 20 Octobre, 1827.

*Présents.*

De la part de  
l'Autriche :  
*M. le Prince de Metternich.*  
*M. le Comte de Lebzeltern.*  
*M. le Chevalier de Neumann.*  
*M. le Comte Henri de Bombelles.*

De la part de  
l'Angleterre :  
*M. l'Ambassadeur d'Angleterre.*

De la part de Son Altesse  
Royale l'Infant Dom Miguel :  
*M. le Baron de Villa-Secca.*  
*M. le Comte de Villa-Real.*

MESSIEURS les Plénipotentiaires Portugais ayant prié M. le Prince de Metternich de vouloir bien réunir une seconde Conférence pour recevoir la communication des Lettres que Son Altesse Royale l'Infant avait écrites, et signées la veille, pour Sa Majesté l'Empereur Dom Pedro, son auguste Frère ; pour Sa Majesté le Roi d'Angleterre ; et pour Son Altesse Royale l'Infante, Dona Maria Isabella, Régente du Portugal ; dans lesquelles Lettres l'Infant, conformément à l'opinion du Cabinet de Vienne, prend la double qualité de Lieutenant et de Régent du Royaume, et le Prince de Metternich s'étant empressé de réunir la Conférence chez lui le 20 Octobre, selon le désir de MM. les Plénipotentiaires Portugais, ces Messieurs ont fait lecture des trois Lettres ci-dessus mentionnées, et en ont déposé au Protocole les Copies et les Traductions. On a payé généralement un juste tribut d'éloges à la sagesse, à la loyauté et à la rectitude de principes qui ont présidé à leur rédaction. Il a toute fois été observé que la Lettre de l'Infant à l'Empereur Dom Pedro, ne renfermait aucune réserve de ses droits personnels ; qu'à Londres cependant on avait pensé, que cette réserve serait désirable. Mais M. le Prince de Metternich a répondu, que l'Infant s'étant déjà explicitement réservé tous ses droits dans la Lettre qu'il a écrite à l'Empereur Dom Pedro, son Frère, en lui envoyant son serment à la Charte Portugaise, une seconde réserve seroit aujourd'hui superflue. Qu'il étoit toutefois très naturel qu'en Portugal on attachât une haute valeur à cette question, qui se lie nécessairement à celles de la confirmation de l'Acte d'Abdication de l'Empereur Dom Pedro, de l'envoi de la jeune Reine Maria da Gloria en Portugal, et de la séparation totale et définitive des deux Couronnes : qu'on pouvait être au reste parfaitement tranquille à cet égard, vû que l'Autriche et l'Angleterre étaient pénétrées de l'importance de ne pas laisser plus long tems indécises des questions d'un si haut intérêt pour la tranquillité intérieure du Portugal, et que ces deux Puissances étaient déterminées à réunir leurs soins et leurs efforts pour en presser et en obtenir la décision à Rio Janeiro.

Les explications fournies sur cet objet par M. le Prince de Metternich ayant été trouvés pleinement satisfaisantes, on a reconnu que la réserve en question serait inutile.

MM. les Plénipotentiaires Portugais ont annoncé ensuite à Monsieur l'Ambassadeur d'Angleterre, que l'Infant avait prévenu les vœux de son Gouvernement en se décidant spontanément à adresser une seconde Lettre confidentielle et affectueuse à l'Infante, sa Sœur, pour la rassurer sur son avenir.—Ces Messieurs ont ajouté, que l'Infant s'était également décidé à écrire par duplicata à l'Infante, sa Soeur, que toutes ces Lettres étaient prêtes, signées et cachetées, qu'il ne leur restait par conséquent qu'à prier M. le Prince de Metternich de vouloir bien en presser l'expédition par la voie de Londres et de Madrid. M. le Prince de Metternich a donné l'assurance positive que ces deux expéditions partiraient dans le plus bref délai possible, et il a en conséquence engagé MM. de Villa-Secca et de Villa-Real à lui envoyer dans

la journée de demain les lettres de Son Altesse Royale ainsi que les Dépêches dont ces Messieurs pourraient désirer vouloir les accompagner.

MM. les Plénipotentiaires Portugais ont enfin observé, que l'appui franc et loyal qu'ils avaient constamment rencontré dans M. le Marquis de Rezende, pour toutes les questions relatives tant au départ de l'Infant qu'à la direction et à l'accélération du voyage de ce Prince, les avaient engagés à le tenir sommairement au courant de leurs transactions, et à le sonder sur le désir qu'il pourrait peut être avoir d'assister aux Conférences destinées à en consacrer le résultat ; mais que M. l'Envoyé du Brésil leur avait répondu qu'il avait satisfait aux instructions de l'Empereur, Son Maître, en faisant connaître franchement à l'Infant les intentions de son auguste Frère relativement à son départ et à son voyage ; mais que, n'étant pas spécialement autorisé à prendre part aux affaires du Portugal, ainsi qu'il l'avait annoncé dans une des réunions confidentielles antérieures, il avait préféré de ne point assister aux Conférences qui y étaient relatives.

En suite de cette déclaration il a été convenu de ne point inviter Monsieur le Marquis de Rezende à assister à la présente Séance, d'en clore le Protocole, de le soumettre, ainsi que celui de la Séance précédente, à la signature de Messieurs les Représentans d'Autriche, d'Angleterre et de Portugal, de conserver les deux Protocoles originaux dans les archives de la Chancellerie de Cour et d'Etat à Vienne, mais d'en délivrer des Copies légalisées à Monsieur l'Ambassadeur d'Angleterre et à MM. les Plénipotentiaires Portugais.

(Signé) METTERNICH.  
LEBZELTERN.  
NEUMANN.  
H. DE BOMBELLES.

H. WELLESLEY.  
CONDE DE VILLA-REAL.  
BARAO DE VILLA-SECÇA.

*Annex 1 to Sub-Enclosure B in No. 15.—(Traduction.)*

*Son Altesse Royale M<sup>se</sup>. l'Infant Dom Miguel à Sa Majesté l'Empereur du Brésil.*

Sire,

*Vienne, le 19 Octobre, 1827.*

J'AI reçu le Décret que Votre Majesté Impériale et Royale Très-fidèle a daigné m'adresser, en date du 3 Juillet, par lequel Votre Majesté a bien voulu me nommer Son Lieutenant et Régent des Royaumes de Portugal, des Algarves, et de leurs Dépendances ; et en me conformant aux déterminations souveraines de Votre Majesté, je m'occupai aussitôt de faire les dispositions nécessaires pour me rendre à Lisbonne, afin de remplir les vues sages et paternelles de Votre Majesté, en gouvernant et régissant les dits Royaumes, conformément à la Charte Constitutionnelle que Votre Majesté a octroyée à la Nation Portugaise.

Tous mes efforts tendront au maintien des Institutions qui regissent le Portugal, et à contribuer, autant qu'il sera en mon pouvoir, à la conservation de la tranquillité publique dans ce pays, en m'opposant à ce qu'elle soit troublée par des Factions, quelle que soit leur origine ;—Factions qui n'auront jamais mon appui.

Que le Ciel conserve les jours précieux de Votre Majesté, &c.

(Signé)

L'INFANT DOM MIGUEL.

*S. M. L'Empereur du Brésil.*

*Annex 2 to Sub-Enclosure B in No. 15.—(Traduction.)*

*Son Altesse Royale M<sup>sr</sup>. l'Infant Dom Miguel à Son Altesse Royale M<sup>de</sup>. l'Infante Régente du Portugal.*

Ma chère Sœur,

Vienne, le 19 Octobre, 1827.

QUOIQUE je doive supposer, que vous êtes déjà informée de la résolution prise par Notre Auguste Frère et Roi, de me nommer Son Lieutenant et Régent des Royaumes de Portugal et des Algarves, et de leurs Dépendances, pour les gouverner conformément à ce qui se trouve prescrit dans la Charte Constitutionnelle, donnée par Notre Auguste Frère à la Nation Portugaise, je ne saurais toutefois me dispenser de vous annoncer, que j'ai reçu le Décret du 3 Juillet, de l'année courante, en vertu duquel je me trouve pleinement autorisé à prendre possession de la Régence des susdits Royaumes.

Déterminé à maintenir intactes les Loix du Royaume et les Institutions octroyées légalement par notre Auguste Frère, et que nous avons tous juré de maintenir et de faire observer, et de régir par elles les susdits Royaumes, ils convient que je le déclare ainsi, afin que vous veuillez bien, ma chère Soeur, donner à cette déclaration solennelle la publicité requise, et que vous fassiez connaître en même tems la ferme intention dans laquelle je me trouve de comprimer les Factions qui, sous quelque prétexte que ce soit, tendraient à troubler la tranquillité publique en Portugal; désirant que les erreurs et fautes passées qui auraient pu être commises, soient livrées à un entier oubli, et que la concorde et un esprit parfait de conciliation succèdent aux agitations déplorable qui ont désuni une Nation célèbre dans les fastes de l'histoire, par ses vertus, sa valeur, sa loyauté et son dévouement à ses Princes.

Afin d'exécuter les intentions Royales de Notre Auguste Frère, je me dispose à retourner en Portugal, et je vous demande, ma chère Sœur, que sans aucune perte de tems vous fassiez préparer et partir pour le port de Falmouth, une Frégate et un Brick, afin qu'ils puissent servir à me transporter à Lisbonne.

Que Dieu, ma chère Soeur, vous ait en sa sainte et digne garde.

S. A. R. M<sup>de</sup>. l'Infante Régente.

(Signé) MIGUEL.

*Annex 3 to Sub-Enclosure B in No. 15.—(Traduction.)*

*Son Altesse Royale M<sup>gr</sup>. l'Infant Dom Miguel à Sa Majesté Britannique.*

Vienne, le 19 Octobre, 1827.

SIRE,

LE Décret par lequel l'Empereur et Roi mon Frère vient de me nommer Son Lieutenant et Régent, dans le Royaume de Portugal et des Algarves et ses Dépendances, m'étant parvenu, un de mes premiers soins doit être de porter cette haute résolution à la connaissance de votre Majesté. Convaincu de la part qu'Elle y prendra par suite de l'ancienne et intime Alliance qui a toujours existé entre le Portugal et la Grande Bretagne, et que je désire sincèrement cultiver, j'ose me flatter qu'Elle voudra bien m'accorder Sa bienveillance et Son appui; le but que je me propose étant de maintenir invariablement la tranquillité et le bon ordre en Portugal, au moyen des Institutions octroyées par l'Empereur et Roi mon Frère; Institutions que je suis fermement résolu à faire respecter.

J'adresse cette demande à Votre Majesté, en attendant que j'ai l'honneur de la Lui faire personnellement, avec la confiance que m'inspire Sa haute sagesse, et l'intérêt qu'Elle a toujours porté, à tout ce qui regarde ma Famille et le bien être du Portugal.

Je prie votre Majesté d'agréer l'hommage de mes sentimens d'attachement et de haute considération.

Sa Majesté Britannique.

(Signé) L'INFANT DOM MIGUEL.

*Sub-Enclosure C in No. 15.*

**PROTOCOLE.** Vienne, le 23 Octobre, 1827.

*Présents.*

De la part de  
l'Autriche :

*M. le Prince de  
Metternich.*

*M. le Comte de  
Lebzeltern.*

*M. le Chevalier  
de Neumann.*

*M. le Comte Henri  
de Bombelles.*

De la part de  
l'Angleterre :

*M. l'Ambassadeur  
d'Angleterre.*

De la part de Son Altesse  
Royale l'Infant Dom Miguel :

*M. le Baron de  
Villa-Secca.*

*M. le Comte de  
Villa-Real.*

LE Protocole de la Conférence du 20 de ce mois était clos et signé, lorsque M. l'Ambassadeur d'Angleterre annonça, qu'il avait encore une communication confidentielle à faire à MM. les Membres de la Conférence, et il leur fit lecture d'une Lettre qui lui était parvenue ce même jour, de Paris, dans laquelle on lui mandait, que des Agens des Réfugiés Portugais y avaient été envoyés d'Espagne, pour obtenir accès auprès de l'Infant. Il paraît, d'après cette Lettre, que ces Réfugiés tâchent d'exciter une insurrection en Portugal et de détruire la Constitution avant l'arrivée de D. Miguel.

M. le Prince de Metternich observa que cette communication méritait une attention d'autant plus sérieuse, que les nouvelles qu'il avait reçues directement d'Espagne dans le courant de la dernière semaine, et dont il s'était empressé de faire part au Gouvernement Britannique, dès le 18. de ce mois, lui donnaient lieu de croire à l'existence de ce projet coupable; que l'Infant avait été Lui même le premier à lui parler de ses craintes à cet égard, en exprimant le vœu qu'on s'occupât des moyens de prévenir un mouvement qui, s'il éclatait avant son arrivée à Lisbonne, pourrait le placer dans la situation la plus difficile et la plus compromettante. M. le Prince de Metternich ajouta, que l'Infant, se trouvant dans des dispositions aussi favorables, le moyen le plus efficace à employer, serait une démarche directe de ce Prince envers le Roi d'Espagne. Il proposa donc d'engager l'Infant à écrire sur le champ à Sa Majesté Catholique, pour Lui faire part des déterminations qu'il vient de prendre, conformément au Décret de l'Empereur D. Pedro, Son Frère, du 3 Juillet, et pour Lui demander en même tems avec confiance de prendre les mesures que, dans sa sagesse, il croirait les plus efficaces pour maintenir la tranquillité dans la Péninsule, et pour faire connaître aux susdits Réfugiés, que l'Infant désapprouvait hautement de semblables tentatives, et qu'il était bien décidé à les réprimer.

Cette proposition de M. le Prince de Metternich ayant été unanimement acceptée, MM. les Plénipotentiaires Portugais s'étant chargés de la soumettre à l'Infant, et ce Prince l'ayant agréée, M. le Baron de Villa Secca et M. le Comte de Villa Real ont annoncé aujourd'hui à la Conférence que Son Altesse Royale s'était prêtée avec empressement à écrire au Roi d'Espagne dans le sens convenu, qu'ils avaient l'ordre de remettre à M. le Prince de Metternich la Lettre de l'Infant à Sa Majesté Catholique, avec la prière de la faire parvenir le plutôt possible à sa destination, et d'en déposer une Copie au présent Protocole.

M. le Prince de Metternich a déclaré qu'il s'en chargerait avec d'autant plus d'empressement, qu'il ne doutait pas qu'une démarche aussi franche et aussi loyale de la part de l'Infant ne produisit tout l'effet qu'on avait le droit d'en attendre. Il proposa en suite de communiquer le présent Protocole aux Cabinets de Londres, Paris, Berlin, et Pétersbourg, en le priant de transmettre sans délai à leurs Missions respectives à Madrid, l'ordre



d'appuyer de toute leur influence la démarche que l'Infant vient de faire auprès de Sa Majesté Catholique.

Cette proposition ayant été unanimement agréée, il a été convenu que ces expéditions pour Paris et Londres se feraient sur-le-champ en conséquence, et qu'elles seraient confiées à M. de Neumann.

(Signé) METTERNICH.  
LEBZELTERN.  
NEUMANN.  
H. DE BOMBELLES.

H. WELLESLEY.  
CONDE DE VILLA-REAL.  
BARAO DE VILLA-SECCA.

*Annex to Sub-Enclosure C in No 15.—(Traduction.)*

*Son Altesse Royale Monseigneur l'Infant Dom Miguel à Sa Majesté le Roi d'Espagne.*

Mon très cher Oncle,

*Vienne, le 21 Octobre, 1827.*

J'AI l'honneur de faire part à Votre Majesté que j'ai reçu un Décrêt, daté de Rio Janeiro, par lequel mon auguste Frère, l'Empereur du Brésil et Roi de Portugal et des Algarves, me nomme Son Lieutenant et Régent dans ces derniers Royaumes. Ayant accepté cette Régence et me disposant à me rendre sous peu à Lisbonne, j'ai été informé par des voyes dignes de foi, que quelques unes des Chefs des Réfugiés Portugais qui se trouvent actuellement dans les Etats de Votre Majesté, se proposent, sur ces entrefaites, d'exciter des mouvemens dont le but serait de troubler l'ordre public en Portugal, ce qui nécessairement amènerait des calamités qui n'échapperont pas à la haute pénétration de Votre Majesté.

Dans cet état des choses, je m'adresse directement à Votre Majesté avec la confiance que m'inspire le désir sincère et bien connu dont Votre Majesté est animée de maintenir la tranquillité dans la Péninsule, afin que, pesant dans sa haute sagesse une affaire aussi grave, Votre Majesté daigne prendre les mesures qu'Elle jugera les plus convenables pour faire connaître aux susdits Réfugiés ma plus entière désapprobation de semblables tentatives, lesquelles je suis bien résolu à réprimer.

Que Dieu, &c.

(Signé)

L'INFANT D. MIGUEL.

*S. M. Le Roi d'Espagne.*

*Translations of Enclosures in No. 15.*

*Prince Metternich to Sir Henry Wellestey.*

*Vienna, October 29, 1827.*

PRINCE METTERNICH has the honour to transmit herewith to His Excellency the British Ambassador, certified Copies of the Protocols of the three Conferences, respecting the Affairs of Portugal, at which his Excellency did him the honour to attend at his house on the 18th, 20th, and 23rd of October, and he avails himself, &c.

*His Excellency the British Ambassador.*

*Sub-Enclosure A in No. 15.*

**PROTOCOL.—Vienna, October 18th, 1827.**

*Present.*

On the part of  
Austria:  
*M. le Prince de  
Metternich.  
M. le Comte de  
Lebzeltern.  
M. le Chevalier  
de Neumann.  
M. le Comte Henri  
de Bombelles.*

On the part of  
England:  
*The British  
Ambassador.*

On the part of His Royal  
Highness the Infant  
Don Miguel:  
*M. le Baron de  
Villa-Secca.  
M. le Comte de  
Villa-Real.*

Prince Metternich having invited the British Ambassador, and the Portuguese Plenipotentiaries, to meet at his house on the 18th of October, and those Gentlemen having repaired there upon his invitation, he proposed that they should record, in an official Protocol, the result of the confidential Negotiations which had taken place between MM. de Villa Secca and Villa Real, since the time of his return to Vienna, relative to the departure of the Infant, that Prince's voyage, and the line of conduct he intended to pursue upon his arrival at Lisbon; and the British Ambassador, as well as the Portuguese Plenipotentiaries, having agreed to this proposition, it was decided that they should annex to the Protocol of the present Conference, the following Documents, namely: 1. A Copy of the Note of the Marquis de Rezende to Prince Metternich, dated 19th September, 1827, which should serve as a commencement to the present Negotiation. In this Note, the Brazilian Envoy announces officially to the Cabinet of Vienna, that the Emperor Don Pedro, his Master, by a Decree, dated the 3rd of July, "has conferred on his Royal Highness the Infant Don Miguel, with the title of his Lieutenant in Portugal, the Regency of the said Kingdom, agreeably to the Laws existing in that State, and in conformity with the Institutions given by the Emperor, his august Brother, to the Portuguese Monarchy."

2. A Translation of the above-mentioned Decree of the 3rd of July, of the Emperor Don Pedro to his Royal Highness Don Miguel.

3. A Translation of the Letter from that Sovereign, to the Infant, his Brother, which accompanied the same.

4. A Translation of the Letter from the Emperor Don Pedro to the King of England.

5. A Translation of the Letter from the Emperor Don Pedro to His Majesty the Emperor of Austria.

6. A Copy of the Despatch, which Prince Metternich has this day addressed to Prince Esterhazy, at London, directing His Excellency to acquaint the British Government of the determination to which the Infant has come, to send Portuguese Ships forthwith to England, whither he himself will repair directly, for the purpose of embarking as quickly as possible for Portugal. This Despatch, which contains an historical and faithful account of the whole Negotiation, relative to the present and future situation of the Infant, as well as the last determinations to which that Prince had come, had been read at a confidential Meeting, which took place on the evening of the 16th of October, at Prince Metternich's, and at which were present the British Ambassador and the Portuguese Plenipotentiaries. It was not until after having obtained their entire concurrence, that this Despatch was this day sent to London. The Portuguese Plenipotentiaries announced to the Conference, that the Infant had likewise made them acquainted with his final determination, relative to his voyage; that His Royal Highness had ordered them to prepare Letters, which he wished to communicate in consequence, without delay, to the Emperor, his Brother, to His Majesty the King of England, and to the Infanta, his Sister; that he had likewise ordered them to draw up the

Letter to the Infanta, in such manner that it might be made public, and that it should at the same time leave no doubt of the firm desire of that Prince, in accepting the Lieutenancy of the Kingdom, which the Emperor, his Brother, had just confided to him, to maintain religiously its Institutions, to bury what had passed in entire oblivion, but to restrain, at the same time, with energy and firmness, the spirit of party and of faction, which has too long agitated Portugal.

All the Members of the Conference could not but render unanimously the most entire justice to such laudable intentions on the part of the Infant; Prince Metternich on his part added, that, immediately after the Infant's Letters should be written and signed, he had offered to send them speedily to England by M. de Neumann, who only awaited their completion to depart, and to transmit Duplicates to Portugal by a Courier, whom he intended to send forthwith by Madrid to Lisbon. The Portuguese Plenipotentiaries having accepted these offers, Prince Metternich thought it proper still further to observe on this occasion, that, above all, the Infant ought undoubtedly to affirm, in the Letters which he intends to write to the King of England, and to the Infanta his Sister, the Title of Lieutenant of the Kingdom, since it is under that Title, that the Emperor entrusts to him the Regency; and that it appeared to him proper, and even necessary, that the Infant should take, together with the Title of Lieutenant, that of Regent of the Kingdom, since, being called, by the Decree of the Emperor Don Pedro, of the 3rd of July, to succeed to the Infanta, his Sister, in the Office of the Regency, it would be equally contrary to his personal dignity, to that of the Portuguese Nation, and to the pleasure of the Emperor Don Pedro, that he should take any Title inferior to that which the Infanta had borne; that there could not, moreover, exist any doubt of the intentions of that Sovereign, in that respect; that they were clearly demonstrated by the tenour of the Note of the Marquis de Rezende, of the 19th of September, by that of the Instructions with which that Envoy was furnished, and lastly, by that of the Letter from the Emperor Don Pedro to the King of England; since, in these different Documents, it is explicitly or implicitly said, that that Sovereign confers the Regency upon the Infant. Moreover, there is no doubt, that the Decree of the Emperor Don Pedro, to the Infant, his Brother, dated the 3rd of July, was addressed "To the Infant, Don Miguel, Regent of the Kingdom of Portugal."

The British Ambassador observed, that having been already informed, for several weeks past, of the opinion of the Cabinet of Vienna in this respect, he had already made his Government acquainted with it; that in fact, he had not yet received any Answer upon this subject, but that he flattered himself, that it would be in conformity with the opinion of the Austrian Cabinet. With respect to the Portuguese Plenipotentiaries, they declared themselves in favour of that which Prince Metternich had just expressed, and they undertook to inform the Infant of it, observing that, for the interest of Portugal, it was undoubtedly desirable that the Infant should not scruple to take, in conformity with the intentions of the Emperor Don Pedro, his Brother, the Title of Regent of the Kingdom. MM. de Villa Secca and Villa Real added, that they had received the order of the Infant to declare, that, filled with gratitude for the paternal kindness which His Majesty the Emperor of Austria has constantly shown to him, since his first arrival at Vienna, and still more particularly on this last occasion, His Highness would consider it his duty, to express personally to His Imperial Majesty the deep and respectful gratitude which he feels, and that he relied upon his sentiments being made known to him by means of the Conference.

Prince Metternich undertook with eagerness, in the mean time, to become the channel of His Royal Highness's sentiments to the Emperor his August Master, adding that His Imperial Majesty would receive the expression of them with the most sincere satisfaction.

(Signed) METTERNICH.

H. WELLESLEY.

LEBZELTERN.

NEUMANN.

CONDE DE VILLA REAL.

H. DE BOMBELLES.

BARAO DE VILLA SECCA.

*Annex 1 to Sub-Enclosure A in No. 15.**The Marquis de Rezende to Prince Metternich.**Vienna, September 19, 1827.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Brazil, is authorized, by a special Order of his August Master, to address himself to Prince Metternich, Chancelier de Cour et d'Etat of His Imperial and Royal Apostolic Majesty, to notify to His Highness the Royal Resolution of July the 3rd, of this year, by which His Most Faithful Majesty has conferred upon His Royal Highness the Infant Don Miguel, with the Title of his Lieutenant in Portugal, the Regency of the said Kingdom, agreeably to the Laws existing in that State, and in conformity with the Institutions granted by his August Brother to the Portuguese Monarchy.

The Undersigned does not doubt that His Imperial and Royal Apostolic Majesty, and his Government, will hasten to acknowledge this Act of His Most Faithful Majesty, and to afford his able co-operation, in order that it may receive, by the immediate departure of the Infant Don Miguel for Portugal, its entire and full execution.

The Undersigned, &c.  
(Signed)

REZENDE.

*His Highness Prince Metternich.**Annex 2 to Sub-Enclosure A in No. 15.**Decree of His Majesty the Emperor Don Pedro to His Royal Highness the Infant Don Miguel,—July 3rd, 1827.*

URGED by motives worthy of my Royal consideration, and considering that the safety of the State ought to be the supreme law for every Sovereign who has at heart the welfare and the happiness of his Subjects; and, moreover, having in view the good qualities, the activity, and the firmness of character, which distinguish my very dear and beloved Brother, the Infant Don Miguel; I name him my Lieutenant, bestowing upon him all the powers, which, as King of Portugal and the Algarves, belong to me, and which are marked out in the Constitutional Charter, in order that he may govern and rule over the same Kingdoms, in conformity with the dispositions of the above-mentioned Charter. The Infant Don Miguel, my very dear and beloved Brother, will thus execute it.

Given at the Palace of Rio de Janeiro, the 3rd of July, 1827.

(Signed)

R.

*His Royal Highness The Infant Don Miguel.**Annex 3 to Sub-Enclosure A in No. 15.**His Majesty the Emperor Don Pedro to His Royal Highness the Infant Don Miguel.*

My Dear Brother,

*Rio de Janeiro, July 3rd, 1827.*

I HAVE the satisfaction to announce to you, that, taking into consideration your discreet conduct, and your known loyalty, I have just named you my Lieutenant in the Kingdom of Portugal, in order that you may govern it in my name, and according to the Constitution that I have granted to the said Kingdom. I expect, my dear Brother, that you will look upon this Resolution as the greatest proof I can give you of my confidence, and of the love I bear you.

(Signed)

PEDRO.

*His Royal Highness The Infant Don Miguel.*

*Annex 4 to Sub-Enclosure A. in No. 15.*

*His Majesty the Emperor Don Pedro to His Britannic Majesty.*

Sir, my Brother, and Cousin,

*Rio de Janeiro, July 3rd, 1827.*

THE necessity of re-establishing order in Portugal, and of consolidating the Constitutional System which has there been sworn to, obliges me, as lawful King of the Country, to order, under this day's date, the Infant Don Miguel, my Brother and my Son-in-Law, to go and govern that Kingdom in my name, in the capacity of my Lieutenant; and in the confidence I place in the unalterable friendship which exists between us, I implore your Majesty to aid me, on your part, not only to enable the Regency to enter quickly upon its functions, but also to ensure that the Constitutional Charter granted by me, and sworn to in that Country, may become the Fundamental Law of the Kingdom.

I avail myself, &c.

(Signed) PEDRO.

*His Majesty the King of Great Britain.*

*Annex 5 to Sub-Enclosure A in No. 15.*

*His Majesty the Emperor Don Pedro to His Imperial and Royal Apostolic Majesty.*

My very dear Father-in-Law, and Friend.

*Rio de Janeiro, July 3, 1827.*

THE recent and unexpected events in Portugal, and the firm, constant, and upright conduct which my Brother the Infant Don Miguel has manifested whilst near your Imperial and Royal Apostolic Majesty, have induced me to direct his departure for Portugal, in order that he may govern that Kingdom in my name, and in the capacity of my Lieutenant. Convinced also as I am that this measure will receive the approbation of your Majesty, I beg your Majesty to assist me, as much as may be in your power, in advising him, both to execute this order, and to govern that Kingdom in conformity with the Constitutional Charter which I have given to it, and which has been sworn to by His Royal Highness, and by the whole of my Portuguese Subjects.

In asking this assistance of your Majesty, I consider myself happy, &c.

(Signed)

PEDRO.

*His Imperial and Royal Apostolic Majesty.*

*Annex 6 to Sub-Enclosure A in No. 15.*

*Prince Metternich to His Highness Prince Esterhazy.*

*Vienna, October 18, 1827.*

BY my Despatch of the 8th of October I had the honour to inform you of the arrival of the Count de Villa Real, of the favourable dispositions which he manifested, and of the entire assent which that Ambassador has given to our preparatory steps, on all the questions relative to the present and future position of the Infant Don Miguel. M. de Villa Real having also found that our proceedings had been conformable to the principles and wishes of the British Government, my first care was to arrange with him, and with the Baron de Villa Secca, on the course to be followed in order to engage the Infant to let us know as soon as possible his intentions, relative to his departure, to his voyage, and to the line of conduct which he intended to adopt on his arrival in Portugal. I thought it my duty to propose, in consequence, to these two Gentlemen, to consider, in the first instance, the Note enclosed in Copy, which has been addressed to me by the Marquis de Rezende, Brazilian Envoy at the Court of Vienna, notifying to me the determinations taken by the Emperor, his Master, on the 3rd of July last, with regard to the Infant Don Miguel, his Brother, and to demand at the same time the effectual co-operation of Austria, in order to engage the Infant to submit with entire deference to the Orders of the Emperor Don Pedro, and to hasten his departure for

Portugal, in order that the Decree of the 3rd July may receive, as soon as possible, its full and entire execution. We agreed afterwards, that I should take upon myself to open the matter with the Infant, that I should invite His Royal Highness, conformably to the wishes of the Emperor His Brother, to make us acquainted with his intentions relative to his departure, and to name, without delay, MM. de Villa Secca and Villa Real to conduct and conclude in his name, with the Cabinet of Vienna, all the arrangements relating to it. We at length agreed that we should meet every day to make each other mutually and confidentially acquainted with the result of our proceedings, to consider of such others as circumstances might require, and that we should keep a Journal of our Meetings, to which we should abstain from giving the official character of Protocols of Conferences, both for the sake of the Infant himself, and in order to leave to His Royal Highness the liberty of expressing more freely his opinions and wishes.

This course having been agreed upon, I went on the 6th of this month to the Infant, to represent to him how desirable it was that he should let us know as soon as possible his intentions relative to his journey. I had the honour to observe to him, that, in order to regulate and arrange definitively every thing relative to his departure, it was desirable that he should instruct the Persons whom he should judge the most worthy of his confidence, to come to an understanding upon this subject with me; that the Baron de Villa Secca and Count Villa Real, who were both of them entitled thereto, by their fidelity and devotion to his person, appeared to me the most deserving of his preference; that if he consented to appoint those two Gentlemen to treat with me, his departure should be the first object with which we should occupy ourselves; that it became every day more urgent to fix the period of it; that it was not the less so to know the route which His Royal Highness would desire to take in going to Portugal, in order to make the necessary preparations; but that I could not conceal from him that, whatever determination he might feel himself called upon to form, the Emperor, nevertheless, could not in any case consent to his passing through Spain; considering, that besides the great inconvenience, which, under present circumstances, should deter him from it, he could not permit himself so to do without acting contrary to the wishes of the Emperor Don Pedro, His Brother, and against the unanimous opinion of all the Powers of Europe. The Infant, without making any objection to the propositions and observations which I had submitted to him, confined himself to replying to me, that he would immediately name Count de Villa Real and the Baron de Villa Secca to come to an understanding, and to concert with me upon the different points upon which I had been speaking to him. He gave his orders on the same day to those two Gentlemen, whom I hastened on my part to meet, for the end which we had proposed. The result of our first Meetings, which naturally had for their principal object that of fixing the period of the Infant's departure, and determining the course which he ought to take, in order to proceed as quickly as possible to Portugal, soon enabled us to perceive, and to be convinced, that if the Infant had at first entertained the idea of passing through Spain to return to Portugal, the knowledge that the Emperor Don Pedro, His Brother, and His Majesty the Emperor, our August Master, were opposed to that plan, had been sufficient to induce him to renounce it. I owe His Royal Highness, besides, the justice to state, that, in conversing with his Attendants, respecting his desire to take by preference the route of Spain, as the shortest and the most expeditious, he did not hesitate to give at the same time the most positive assurances of his firm determination not to allow any Portuguese Refugee to approach his person. But if we were soon satisfied with this first plan of the Infant, we perceived, on the other hand, that the mind of this Prince was strongly preoccupied with two ideas, which had all the weight of two positive determinations:—viz. that of embarking in no other than a Portuguese Vessel, and of not landing between Austria and Portugal. As soon as I was assured of this fact, I hastened to make it known to the Emperor, our August Master, and I received His Majesty's Orders to engage M. de Villa Real and M. de

Villa Secca to represent, in His name, to the Infant, that he had been informed of the desire he had expressed of going to Lisbon in a Portuguese Vessel, and that if this project were feasible, the Emperor would not oppose it; but that He was too sincerely interested in the Infant, not to feel it his duty to point out to him the impossibility of so doing, seeing the immense and irreparable loss of time which would be sustained by it; that before two Portuguese Men of War could be armed at Lisbon and arrive at Leghorn to receive the Infant, near three months would elapse, to which at least another month must be added for the passage from Leghorn to Lisbon, which at this season is uncertain and long; that, consequently, the Infant could not arrive at his destination in less than four or five months; that so great a delay, by prolonging uncertainty in Portugal, would infallibly endanger the internal tranquillity of that Kingdom, and perhaps even the political existence of His Royal Highness, who could not postpone, without injury, his arrival at Lisbon, every day's delay rendering his first appearance there more difficult, and even more dangerous; that it was necessary, therefore, above all, to consider the means of arriving there with the least possible delay; that he could embark either in one of the Ports of the Mediterranean, or in one of the Ports of the North Sea; that, on the part of Austria, no opposition would be made to his desire to embark from Italy, if it were possible to furnish him with the means of doing so, but that these means did not exist, and that some weeks would be necessary to prepare them, which would incur a delay almost as long as that to which the Infant must submit, in case he should decide to order Portuguese Vessels to come to Leghorn; that as any delay in his journey might cause the greatest inconvenience, and as the Emperor felt himself called upon, by the real friendship which he entertains for the Prince, not to permit him to compromise, gratuitously, what regarded his personal interests, as well as the internal tranquillity of the Kingdom, of which his August Brother has just conferred upon him the Regency, His Majesty could not refrain from conscientiously offering him his advice, not to hesitate an instant to embark from one of the Ports of England or of The Netherlands; that the Infant must necessarily choose between those two Countries, as the nearest route to his destination, taking into consideration that, if he passed through France and England, he could not avoid stopping at Paris and at London, to present his respects to His Most Christian Majesty, and to His Britannic Majesty; that, on the other hand, by embarking in one of the Ports of The Netherlands, he could, it was true, go direct to Lisbon, and arrive there more quickly, but that he would loose a favourable occasion of seeing the King of England, of gaining his good wishes, and of claiming in person that support which the Emperor Don Pedro, His Brother, had recently solicited for His Royal Highness, in the Letter addressed to His Britannic Majesty on the 3rd of July.

The Portuguese Plenipotentiaries having taken upon themselves to bring to the knowledge of the Infant this paternal advice, which His Majesty the Emperor, our August Master, thought it his duty to give him, in a matter of such importance to him hereafter, it was on the evening of the 9th of October, that they acquitted themselves of this Commission. The Infant heard them with the most serious attention, but did not hesitate to declare to them, that the considerations which they had just submitted to him, had no effect upon his determination; that he was firmly resolved not to embark in any but a Portuguese Vessel, for the purpose of going direct to Lisbon; and that as to the delay which would result from this, there was no reason to fear that it would affect the interior tranquillity of Portugal; for that he would write, and would answer for it that that tranquillity should not be interrupted. This declaration of the Infant's rendering all further deliberation useless, I declared on my part to the Portuguese Plenipotentiaries, that I would immediately bring the matter to the knowledge of the Emperor. His Majesty then determined to speak Himself to the Infant, and had accordingly rather a long conversation with that Prince on the 12th of October, in which His Majesty recapitulated all the arguments and all the motives which had been brought forward in his name to the Infant, two days before, by the Portuguese Plenipotentiaries, in order to make him sensible of the serious inconvenience, and even dangers to

which he would expose himself, if he persisted in his refusal to embark, except in one of the Austrian ports, and in a Portuguese Vessel, in consequence of the delay of several months, to which his departure, and consequently his arrival in Lisbon, would in that case necessarily be subjected. The Emperor represented forcibly to the Infant, that a Sovereign, and still more a Regent, who was called upon to take the reins of Government, could not use too great despatch in arriving among his People; that he ought, consequently, to choose the most direct and expeditious route; and that if he persisted in his refusal, he would expose himself to the suspicion of a want of zeal in that respect, and of a wish to prolong his residence at Vienna for his own pleasure. The Infant having, notwithstanding these wise observations, persisted in his resistance, the Emperor asked him if he had by chance any dislike to embark on board an English Vessel. The Infant replied, that he had no dislike to England; that he knew that that Power was on the best terms with the Emperor, his Brother; and that it was besides the natural Ally of Portugal; that he desired sincerely to be on good terms with it, (and he repeatedly used this last phrase in his conversation with the Emperor;) but that he was of opinion, that in giving his consent to embark on board a Foreign Ship, he would outrage the national opinion, and wound in a sensible degree the national feeling; that it was for this reason that he had decided not to embark on board any but a Portuguese Ship, in order to proceed directly to Lisbon, without placing his foot upon any foreign land. The Infant added of his own accord, that he was also determined to maintain in Portugal the Charter to which he had sworn; that His Majesty might rely upon this point without uneasiness; and finally, that he intreated him to believe that his heart was filled with gratitude for the kindness which He had heaped upon him. The Emperor seeing that the Infant was for the moment fully determined not to yield, His Majesty engaged him seriously to reflect further upon the conversation which He had just had with him, and for the present not to come to any final decision upon a question of so much importance, and so deeply affecting his future welfare. The Emperor desired me at the same time to ascertain, myself, whether the Infant, after having more maturely reflected upon his position, would not perhaps feel the necessity of yielding to the counsels of wisdom and reason.

Seeing ourselves thus arrested in our progress by the unexpected resistance we had met with from this young Prince, I determined at once, confidentially, and in the fullest detail, to make the British Ambassador (whom I had previously informed of the object and end of my confidential Conferences with the Portuguese Plenipotentiaries) acquainted with all that had passed between them and me, and between His Majesty and the Infant. I afterwards invited Sir Henry Wellesley to meet those Gentlemen and me, to take together into consideration the means which we could yet adopt, in order to overcome the resistance of the Infant, and, in the event of our not succeeding, to concert such measures as, with the consent of his Government, from which we were quite determined not to separate ourselves in this affair, it might be necessary to adopt without delay, in order not to prolong such a dangerous state of things in Portugal. All opinions having concurred upon the serious inconvenience to which the Infant would expose himself, by persisting in his refusal to go by England, and at the same time upon the advantage which would be derived from my having, upon this subject, a last and categorical explanation with His Royal Highness, it was settled that it should take place that day at two o'clock. As I was unwell, the Infant was graciously pleased to come, at my invitation, to my house. I asked him permission to admit, as a third Person, the Comte de Bombelles, formerly attached to his Person in the capacity of Chamberlain, who was honoured with his favour, and who was besides destined to accompany His Royal Highness to Lisbon—there to take upon himself the character of Minister Plenipotentiary and Envoy Extraordinary from His Majesty the Emperor. The Infant having given his consent, we had a conversation together, of which I proceed to give you a brief but exact account.

I began by representing to the Infant, that till now we had been losing useful



and valuable time; that in Europe, and particularly in Portugal and England, they would not know to what cause to attribute the long delay to which his departure had been subjected; that I could no longer allow myself to remain silent, especially towards the British Cabinet, which was so frankly united with Austria in the interests of the Infant, and whose favour and support he was himself, personally, so much interested in conciliating. I then recapitulated to the Prince the arguments and considerations the most calculated to have an effect upon him. I declared to him, without reserve, that in his position there were only two measures to take: either to order immediately a Portuguese Ship of War to England, where His Royal Highness must, on his part, go directly in order to embark as soon as possible, or to await at Vienna the final decision of the Emperor Don Pedro, to whom the Cabinets of Vienna and London would be under the necessity of communicating the motives which had induced the Infant not to comply immediately with his orders. I added, that if he decided upon the first alternative, I was ready to despatch a Courier to London, to inform the British Government of it, and that without allowing myself to prejudge its decision, I did not doubt but that that Government would willingly yield to his wishes in that respect. I ended by reminding the Infant of the value which the Emperor placed upon seeing him follow implicitly his counsels, which had hitherto been so useful to him; and I did not conceal from him that His Majesty was deeply affected by the obstinacy with which he had resisted them.

I soon perceived that I had had the good fortune to make a deep impression upon the Infant;—he was visibly moved, and, after a few moments of reflection, he at length yielded to the counsels of friendship and reason. From that moment the conversation of the Infant became lively and animated; he expressed himself to me with as great freedom and frankness, as he had till then used reserve, in his replies. He told me that he was ready to proceed to England for the purpose of embarking as soon as possible on board a Portuguese Ship, that he would in consequence give the necessary orders, and that he requested me to write to England and to Portugal to hasten the execution of them; that he considered it to be due to the Portuguese Nation and to himself, not to return to his Country under any other Flag than that of Portugal. In the course of this conversation he did not deny that he had some fears of passing through England, because he knew that strong prejudices had been entertained against him there, which made him apprehensive that he might be badly received. He afterwards, of his own accord, began to speak to me, with warmth of feeling, of the line of conduct which he intended to follow upon his arrival at Lisbon; and I confess that I was surprized with the rectitude of the principles, and with the wisdom of the views which he detailed to me with remarkable clearness and precision. The manner in which the Infant explained himself to me upon this occasion does not allow me to doubt that he is animated by the best disposition, and that he is not only firmly resolved to maintain the Charter, but that he even sees the importance and necessity of doing so. On leaving me, he requested me to convey his final determinations to the knowledge of the Emperor, which I hastened to do, and he afterwards asked me to be so good as to concert with the Portuguese Ministers all the arrangements relative to his departure, which we have just done, and with which I shall have the honour of acquainting you in a Despatch, of which M. de Neumann will be the bearer.

Such is the faithful account of what has passed here with the Infant since the arrival of M. de Villa Real. If the resistance with which he opposed us at first is to be regretted, particularly with reference to the loss of time which has been occasioned by it, it has had, on the other hand, the advantage of offering to us a true guarantee of the sincerity of the intentions of this young Prince, who has only yielded from conviction, and who, from the moment he became convinced, has evinced the most favourable dispositions, and principles the most conformable to our wishes. It is from a sentiment of nationality perhaps exaggerated, but laudable in him, that he is determined to proceed to Lisbon in a Portuguese Ship, and in this point of view his opposition is excusable. As to the rest, I did all I could to quiet his mind entirely with

regard to the manner in which he would be received in England. I promised him that the Emperor would recommend him particularly to the personal kindness of the King ; and His Majesty has in fact commanded me expressly to charge your Highness to do every thing in your power to prepare for this young Prince a favourable and gracious reception, as well on the part of the King as on that of the Government.

Your Highness is authorized to communicate this Despatch, without reserve, to the Principal Secretary of State.

His Highness The Prince Esterhazy. Receive, &c.  
(Signed) METTERNICH.

Sub-Enclosure B. in No. 15.

PROTOCOL.—Vienna, October 20th, 1827.

<i>Present.</i>	<i>Present.</i>	<i>Present.</i>
On the part of Austria :	On the part of England :	On the part of His Royal Highness the Infant Don
<i>M. le Prince de Metternich.</i>	<i>The British Ambassador.</i>	Miguel :
<i>M. le Comte de Lebzeltern.</i>		<i>M. le Baron de Villa-Secca.</i>
<i>M. le Chevalier de Neumann.</i>		<i>M. le Comte de Villa-Real.</i>
<i>M. le Comte Henri de Bombelles.</i>		

THE Portuguese Plenipotentiaries having requested Prince Metternich to have the goodness to assemble a second Conference to receive the communication of the Letters, which His Royal Highness the Infant had written and signed on the preceding evening, for His Majesty the Emperor Don Pedro, his August Brother, for His Majesty the King of England, and for Her Royal Highness the Infanta Donna Maria Isabella, Regent of Portugal ; in which Letters the Infant, in conformity with the opinion of the Cabinet of Vienna, assumes the double character of Lieutenant and Regent of the Kingdom ; and Prince Metternich being desirous to reassemble the Conference at his house on the 20th of October, according to the desire of the Portuguese Plenipotentiaries, those Gentlemen read the three Letters above mentioned, and annexed to the Protocol Copies and Translations of them. A just eulogium was generally paid to the wisdom, uprightness, and rectitude of the principles manifested in their composition. It was also observed, that the Letter of the Infant to the Emperor Don Pedro did not contain any reservation of his personal rights, but that at London, however, such a reservation was considered as desirable. But Prince Metternich replied that, the Infant having already explicitly reserved all his rights in the Letter which he has written to the Emperor Don Pedro, his Brother, in sending to him his oath to the Portuguese Charter, a second reservation would at present be superfluous ; that it was, notwithstanding, very natural that in Portugal a high value should be attached to that question, which is necessarily connected with those, of the confirmation of the Act of Abdication of the Emperor Don Pedro, of the sending the young Queen Maria da Gloria to Portugal, and of the total and definitive separation of the two Crowns ; that they might remain perfectly tranquil on that head, seeing that Austria and England were convinced of the importance of not suffering a longer time to elapse without deciding upon questions of so high an interest for the interior tranquillity of Portugal, and that those two Powers were determined to unite their efforts to urge and obtain their decision at Rio de Janeiro.

The explanations furnished on this subject by Prince Metternich having been found fully satisfactory, it was acknowledged that the reservation in question would be useless.

The Portuguese Plenipotentiaries afterwards announced to the English Ambassador, that the Infant had anticipated the wishes of his Government, in deciding spontaneously to address a second confidential and affectionate Letter to the Infanta, his Sister, to tranquillize her on the subject of her future condition. Those Gentlemen added, that the Infant had also decided to write in duplicate to the Infanta, his Sister, that all the Letters were ready, signed and sealed; that it only remained for them, consequently, to request Prince Metternich to have the goodness to hasten their despatch by way of London and Madrid. Prince Metternich gave a positive assurance that these two expeditions should set out with the least possible delay, and he in consequence engaged M. M. de Villa-Secca and de Villa-Real to send to him in the course of to-morrow, the Letters of His Royal Highness, as well as the Despatches which those Gentlemen may desire should accompany them.

The Portuguese Plenipotentiaries observed, lastly, that the frank and loyal support which they have constantly met with from M. the Marquis de Rezende, in regard to all the questions, relative, as well to the departure of the Infant as to the direction and acceleration of the journey of that Prince, has induced them to keep him generally acquainted with the course of their transactions, and to enquire him respecting the desire which he might perhaps have, to assist at the Conferences destined to sanction the result; but that the Envoy of Brazil had answered, that he had fulfilled the Instructions of the Emperor, his Master, in causing the Infant to know distinctly the intentions of His August Brother, relative to his departure and voyage; but that, not being specially authorized to take part in the Affairs of Portugal, as he had announced in one of their former Confidential Meetings, he had preferred not assisting at the Conferences relative to them.

In conformity with this declaration, it has been agreed not to invite the Marquis de Rezende to assist at the present Meeting, but to conclude the Protocol of it, and to submit it, as well as that of the preceding Meeting, for the signature of the Representatives of Austria, England, and Portugal, to preserve the two Original Protocols in the Archives of the Chancery of the Court and State at Vienna, and to deliver legalized Copies of it to the English Ambassador, and the Portuguese Plenipotentiaries.

(Signed) METTERNICH.

H. WELLESLEY.

LEBZELTERN.

NEUMANN.

CONDE DE VILLA-REAL.

H. DE BOMBELLES.

BARAO DE VILLA-SECCA.

*Annex 1 to Sub-Enclosure B in No. 15.*

*His Royal Highness The Infant Don Miguel to His Majesty The Emperor of Brazil.*

SIR,

*Vienna, 19th October, 1827.*

I HAVE received the Decree which your Imperial, Royal, and Most Faithful Majesty, has deigned to address to me, dated the 3d July, by which your Majesty has been pleased to nominate me your Lieutenant and Regent of the Kingdoms of Portugal, the Algarves, and their Dependencies; and, conformably with the sovereign determinations of your Majesty, I immediately occupied myself in making the necessary arrangements to proceed to Lisbon, in order to fulfil the wise and paternal views of your Majesty, in governing and ruling the said Kingdoms, conformably to the Constitutional Charter, which your Majesty has granted to the Portuguese Nation.

All my efforts shall tend to the maintenance of the Institutions which govern Portugal, and to contribute, as much as lies in my power, to the preservation of the public tranquillity in that Country, to prevent its being troubled by Factions, whatever may be their origin;—Factions which shall never have my support.

May Heaven preserve the precious days of your Majesty.

(Signed)

THE INFANT DON MIGUEL.

*His Majesty The Emperor of Brazil.*

*Annex 2 to Sub-Enclosure B. in No. 15.*

*His Royal Highness the Infant Don Miguel to Her Royal Highness the Infanta Regent of Portugal.*

My dear Sister,

Vienna, 19th October, 1827.

ALTHOUGH I have every reason to suppose that you are already acquainted with the resolution taken by our August Brother and King, to nominate me His Lieutenant and Regent of the Kingdoms of Portugal and the Algarves, and their Dependencies, to govern them conformably to what is prescribed in the Constitutional Charter given by our August Brother to the Portuguese Nation, I cannot nevertheless forbear announcing to you, that I have received the Decree of the 3d of July of the present year, in virtue of which I find myself fully authorized to take possession of the Regency of the above-mentioned Kingdoms.

Determined to maintain inviolate the Laws of the Kingdom, and the Institutions legally granted by our August Brother, and which we have all sworn to maintain and to cause to be observed, and to rule by them the above-mentioned Kingdoms, it is proper that I should so declare it, that you may have the goodness, my dear Sister, to give to that solemn declaration the required publicity, and that you may make known at the same time, the firm intention which I have to repress the Factions, which, under whatever pretext, tend to trouble the public tranquillity in Portugal; desiring that past errors and faults which may have been committed may be buried in an entire oblivion, and that concord and a perfect spirit of conciliation may succeed to the deplorable agitations which have divided a Nation, celebrated in the annals of history for its virtues, valour, loyalty, and devotion to its Princes.

In order to execute the Royal intentions of our August Brother, I am preparing to return to Portugal, and I request you, my dear Sister, without any loss of time, to cause a Frigate and a Brig to be prepared, and to set out for the Port of Falmouth, in order that they may serve to transport me to Lisbon.

May God, my dear Sister, have you in his safe and holy keeping.

*The Infanta Regent of Portugal.*

(Signed)

MIGUEL.

*Annex 3 to Sub-Enclosure B. in No. 15.*

*His Royal Highness the Infant Don Miguel to His Britannic Majesty.*

Sire,

Vienna, 19th October, 1827.

THE Decree, by which The Emperor and King, my Brother, has nominated me His Lieutenant and Regent in the Kingdoms of Portugal and the Algarves, and its Dependencies, having reached me, one of my first cares must be to convey this noble Resolution to the knowledge of your Majesty. Convinced of the interest which you will take in it, on account of the ancient and intimate Alliance which has always subsisted between Portugal and Great Britain, and which I sincerely desire to cultivate, I dare flatter myself that you will have the goodness to grant me your good-will and support. The end which I propose to myself being, invariably to maintain tranquillity and good order in Portugal, by means of the Institutions granted by the Emperor and King, my Brother;—Institutions which I am firmly resolved to cause to be respected.

I address this request to your Majesty, in the expectation of having the honour of making it to you personally, with the confidence inspired by your great wisdom and the interest which you have always taken in every thing which regards my Family and the welfare of Portugal.

I pray your Majesty to accept the homage of my sentiments of attachment and high consideration.

(Signed)

THE INFANT DON MIGUEL.

*His Britannic Majesty.*

*Sub-Enclosure C in No. 15.*

**PROTOCOL.**—*Vienna, October 23d, 1827.*

*Present :*

On the part of	On the part of	On the part of His Royal
Austria :	England :	Highness the Infant Don
<i>M. le Prince de Metternich.</i>	<i>The British</i>	Miguel :
<i>M. le Comte de Lebzelter.</i>	<i>Ambassador.</i>	<i>M. le Baron de Villa Secca.</i>
<i>M. le Chevalier de Neumann.</i>		<i>M. le Comte de Villa Real.</i>
<i>M. le Comte H. de Bombelles.</i>		

THE Protocol of the Conference of the 20th of this month was approved and signed, when the British Ambassador announced that he had still a confidential Communication to make to the Members of the Conference, and he read to them a Letter which he had that day received from Paris, in which he was informed that some Agents of the Portuguese Refugees had been sent there to obtain access to the Infant. It appears, according to this Letter, that these Refugees are endeavouring to excite an Insurrection in Portugal, and to destroy the Constitution before the arrival of Don Miguel.

Prince Metternich observed, that this Communication deserved the more serious attention, as the intelligence which he had received direct from Spain in the course of the last week, and which he had hastened to communicate to the British Government on the 18th of this month, gave him reason to believe in the existence of this culpable project ; that the Infant had himself been the first to speak to him of his fears with respect to this, and had expressed a wish that means should be thought of to prevent a movement, which, should it break out before his arrival at Lisbon, might place him in a very difficult and embarrassing situation. Prince Metternich added, that, as the Infant entertained views so favorable, the most effectual means to employ would be a direct overture from this Prince to The King of Spain. He proposed, therefore, to invite the Infant to write immediately to His Catholic Majesty, to inform him of the determination which he had come to, in conformity with the Decree of the Emperor Don Pedro, His Brother, of the 3d of July, and to ask of him at the same time, with confidence, to take such measures as, in his wisdom, he should judge most effectual in preserving tranquillity in the Peninsula, and to make known to the aforesaid Refugees, that the Infant highly disapproved of such projects, and was determined to repress them.

This proposal of Prince Metternich having been unanimously approved, the Portuguese Plenipotentiaries having undertaken to submit it to the Infant, and that Prince having received it favourably, the Baron de Villa Secca, and the Count de Villa Real, have announced to day to the Conference, that His Royal Highness had willingly consented to write to the King of Spain in the sense agreed upon, that they had it in command to deliver to Prince Metternich the Letter of the Infant to His Catholic Majesty, with the request that it might be forwarded to its destination as soon as possible, and to annex a Copy of it to the present Protocol.

The Prince Metternich declared that he took charge of it with the greater pleasure, inasmuch as he did not doubt but that a step so frank and loyal on the part of the Infant, would produce all the effect which it gave a right to expect. He then proposed to communicate the present Protocol to the Cabinets of London, Paris, Berlin, and Petersburg, with the request that they would transmit without delay to their respective Missions at Madrid, orders to support, with all their influence, the step which the Infant has just taken towards His Catholic Majesty.

This proposition having been unanimously approved, it was agreed that the Despatches for Paris and London should be, in consequence, made up immediately, and that they should be entrusted to M. de Neumann.

(Signed)

METTERNICH.  
LEBZELTERN.  
NEUMANN.  
H. DE BOMBELLES.

H. WELLESLEY.  
CONDE DE VILLA REAL.  
BARAO DE VILLA SECCA.

L

*Annex to Sub-Enclosure C in No. 15.*

*His Royal Highness the Infant Don Miguel to His Majesty the King of Spain.*

My very Dear Uncle,

Vienna, 21st October, 1827.

I HAVE the honour to inform your Majesty, that I have received a Decree, dated from Rio de Janeiro, by which my August Brother, the Emperor of Brazil, and King of Portugal and the Algarves, nominates me his Lieutenant and Regent in the last mentioned Kingdoms. Having accepted this Regency, and proposing shortly to repair to Lisbon, it has come to my knowledge, from sources worthy of credit, that some of the Chiefs of the Portuguese Refugees, who are now in the Dominions of your Majesty, intend in the mean time to excite movements, with the intention of disturbing public order in Portugal, which would necessarily produce calamities, which will not escape the high penetration of your Majesty.

In this state of things, I address myself directly to your Majesty, with the confidence with which I am inspired by the sincere and well-known desire by which your Majesty is animated, of maintaining tranquillity in the Peninsula, in order that, weighing in your high wisdom a matter so weighty, your Majesty would deign to take those measures which He shall judge the most fitting, in order to make known to the aforesaid Refugees my most entire disapprobation of such projects, which I am firmly resolved to repress.

May God, &c.

(Signed) THE INFANT DON MIGUEL.

*His Majesty the King of Spain.*

*Despatches from Sir Frederick Lamb, with regard to the Conduct of the Infant Don Miguel in Portugal. 1828.*

No. 16.

*Sir Frederick Lamb to the Earl of Dudley.—(Received March 14 )*

My Lord,

*Lisbon, March 1st, 1828.*

ON the 26th ultimo, the Infant Don Miguel took the Oath in the form prescribed by the Constitution, the Infanta Dona Isabel Maria having previously resigned the Regency, and delivered the Speech, of which I have the honour to enclose a Translation.

The whole of the Diplomatic Body were present, except the Nuncio.—Not having delivered my Credentials, Mr. Forbes attended on the part of England.

On the days immediately succeeding His Royal Highness's landing, there were cries of "Long live Don Miguel the First," and attempts were, unsuccessfully, made to induce the Soldiers to join in them. These have not been repressed or punished as they ought; but, although much distrust prevails, no further expression of party feeling has taken place here. In the Provinces some Ultra Royalist movements are reported to have been attempted, but to have been easily repressed, the Military taking no part in them.

I have the honour to be, &c.

*The Right Hon. the Earl of Dudley,*  
&c. &c. &c.

(Signed) F. LAMB.

*Enclosure in No. 16.—(Translation.)*

*Speech of the Infanta, Dona Isabel Maria, to the Chambers, on resigning the Regency.*

*February 26th, 1828.*

AN event out of the ordinary course, which at this moment not only attracts the attention of all Europe, by uniting the good wishes of its separate Governments, but which ought to leave all good Portuguese nothing farther to wish for, has, to-day, called you together in these august precincts. My esteemed and dear Brother, the Infant Don Miguel, appointed to assume the Regency of this Kingdom, is here for the purpose of ratifying and fulfilling, by the most solemn of Acts, in the presence of the Nation, that Oath which he so willingly took when at a distance from it. My August Brother, the Infant Don Miguel, having thus been legitimately called to such an exalted Station, having been welcomed by the good wishes of the whole Nation, and reuniting unanimously those of all the European Powers whom an enlightened policy binds together in the sacred tie of their common interest, will, happily for this Country, find himself placed in the most advantageous position, for evincing the wisdom of his intentions, the firmness of his character, and the moderation of his principles.

Let us therefore hope that this European event, which must ever be a most distinguished epoch in the annals of Portuguese History, may as completely meet the wants of the People as it has satisfied their affection and wishes for his presence.

In respect to myself, relieved this day from a charge to which I felt myself so unequal, but which I submitted to with patience, from those motives of obedience which now make me resign it with pleasure, I shall, with fervent wishes for its happiness, watch over the destinies of a Nation whose real Interests must ever be dear to me, and I must always consider my having been called to govern it as the most valued title of my glory.

M

## No. 17.

*Sir Frederick Lamb to the Earl of Dudley.—(Received March 14.)*

(Extract.)

*Lisbon, March 1st, 1828.*

A DELAY of some days arose in the taking of the Oath, from discussions as to the form to be adopted. Several of the Infant's Advisers, at the head of whom was the Duke of Cadaval, recommended that it should conclude with the engagement to resign the Regency into the hands of the young Queen.

In these Discussions I did not conceive it to be my province to take a part, until they had been carried so far that the Count de Villa Real waited upon me, by Don Miguel's order, with a request that I would send a Packet to England, to notify to His Majesty's Government that it was his intention not only to take the Oath I have mentioned, but afterwards to administer the Government in the Name of Dona Maria da Gloria. This was so total a departure from all that had been settled in England; it was so incompatible with the Negotiation now pending in Brazil, and would have put us upon so false a footing with Don Pedro; that I replied, without hesitation that, in case such a purpose were persisted in, I should defer presenting my Credentials until the receipt of further Orders from my Court.

Count de Bombelles, who had already felt some doubt whether he could, under such circumstances, present his, was decided by my determination, and acquainted the Infant with his resolution, in a private audience; using, at the same time, every argument which might deter His Royal Highness from a course, so calculated to embroil the affairs of this Country, and to deprive him of the support of the European Courts. After much consultation with many Advisers, the Duke of Cadaval gave way, and the Infant took the Oath, nearly, if not quite, in the same words in which it had been taken by His Sister, concluding it by the engagement to resign the Regency in conformity with the Charter.

*The Right Hon. the Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.

## No. 18.

*Sir Frederick Lamb to the Earl of Dudley.—(Received March 14.)*

My Lord,

*Lisbon, March 1st, 1828.*

THERE is an active struggle going on in the interior of the Palace. The Queen has taken up her residence at the Ajuda, under the same roof with the Infant, and His Royal Highness is incessantly assailed with recommendations to declare himself King and reign without the Chambers.

It depends entirely upon his will to do so; the Chambers would offer no opposition, and the measure would be popular with the great majority of the Country; but as yet he remains firm, and says it would be a breach of faith of which he will not be guilty.

The battle is not yet over, and, fortunately, among His Royal Highness's Ministers are Persons, who for the present, will firmly resist such measures.

I have the honour to be, &c.

*The Right Hon. the Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.



## No. 19.

*Sir Frederick Lamb to the Earl of Dudley.—(Received March 17.)*

(Extract.)

*Lisbon, March 2d, 1828.*

FRESH Proclamations have been received from the Refugees in Spain, ending with *Vivas* to Dom Miguel the First, if he is worthy, and calling upon all true Portuguese to assert his rights. It is to be apprehended that Addresses will be procured from the Municipalities, or movements excited in the Provinces, which will give a colour to represent the future conduct of the Infant as called for by the wish of the Nation.

Your Lordship may recollect that the Infant had engaged at Vienna to issue a Proclamation declaratory of his sentiments upon arriving in Portugal. This engagement has been recalled by M. de Villa Real, but its fulfilment negatived in Council. M. de Bombelles and I have judged it inexpedient to put ourselves forward in order to obtain it, as, even in case of our prevailing, the redaction would always remain in the hands of the Portuguese Ministers, and the Infant might easily be made to hold a language at least as bad as his present silence.

*The Right Hon. the Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.

## No. 20.

*Sir Frederick Lamb to the Earl of Dudley.—(Received March 18.)*

My Lord,

*Lisbon, March 12th, 1828.*

BY the Decree published in the "Gazeta de Lisboa" of yesterday, your Lordship will perceive that the Colonels of seven of the Regiments, composing the Garrison of Lisbon, have been removed. Of these the two Colonels of Cavalry are obnoxious, as having served with the greatest distinction under the Count Villaffor. Among the others are some, the reason of whose dismissal is not so evident, but in all instances they have been replaced by Persons upon whom the Infant thinks he can implicitly count. Two of the Regiments composing the Garrison still retain their former Colonels, and the reason generally assigned is, that these two Regiments were resolved to turn out, if their Commanders were taken from them. It is understood that the purification of the Army will be carried to a great extent, and that the Adherents of the Marquis de Chaves will be substituted for the Officers and non-commissioned Officers at present in active employment. Though this is calculated to give ultimately to the Infant the complete possession of the Army, yet for the moment it has a directly opposite effect; and I have ascertained beyond a doubt that the real reason of his wish to delay the embarkation of our troops, was in order to retain them as guarantees of his safety, until the operation should be completed. These changes amount in fact to a new Revolution, and are directly opposed to all the Engagements taken by the Infant. They are perfectly unnecessary, except as the precursors of more violent Measures, the Army being perfectly obedient, and having shown no sign of want of attachment, either to the Infant or to its duties.

I have the honour to be, &c.

*The Right Hon. the Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.

P.S. I this moment learn that an Order will appear to day changing all the Governors of the Provinces; among them the Count d'Alva, Governor of the Algarves; and it is generally understood that their only crime is the having resisted the entrance of the Rebels. The Count d'Alva is brother-in-law to the Count Villa Real.

F. L.

## No. 21.

*Sir Frederick Lamb to the Earl of Dudley—(Received March 24.)*

(Extract.)

*Lisbon, March 15th, 1828.*

THE Chamber of Deputies was yesterday dissolved by communication of a Decree from the Regent. A second Decree orders the formation of a Junta to take measures for preparing new Elections. This is contrary to the Charter, which enjoins that, upon dissolving the Chambers, another shall be immediately summoned. A few days back, it was the intention of the Regent that none should be summoned at all, and I suppose he will persevere in his purpose.

*The Right Hon. the Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.

## No. 22.

*Sir Frederick Lamb to the Earl of Dudley—(Received April 3.)*

My Lord,

*Lisbon, March 22nd, 1828.*

I ENCLOSE Translation of the Decree, appointing a Junta to prepare the Election of a new Chamber of Deputies.

This Decree, though dated on the 13th, did not appear till the evening of the 17th. It directs, that the new Instructions to be framed, shall be consonant to the ancient Institutions of the Kingdom. This is in conformity with the views of the Anti-Constitutional Party, which has never ceased to call for the ancient Cortes. This mode, however, of arriving at them, is directly contrary to the Charter.

I have the honour to be, &amp;c.

*The Right Hon. the Earl of Dudley.*  
*&c. &c. &c.*

(Signed) F. LAMB.

*Enclosure in No. 22.—(Translation.)*

*Decree of the Infant, Don Miguel, respecting the Election of a new Chamber of Deputies. 13th March, 1828.*

*Home Department.*

THE immediate convocation of a Chamber of Deputies to replace that which I was pleased to dissolve by a Decree of this day's date, being at this moment impracticable, because the Law for the regulation of Elections is not yet made, and the dispositions ordered to be observed by the Decree of the 7th August, 1826, are notoriously defective, as is proved in practice;—I am pleased, in the name of the King, to annul the said Decree of the 7th August, 1826, and to order that the framing of new Instructions shall be immediately proceeded in, which, being in conformity to what is prescribed by the Constitutional Chart, shall, at the same time, be agreeable to the ancient usages and laudable customs of these Kingdoms, fit for a Monarchy, and incapable, as far as possible, of being eluded or defrauded; thus affording the loyal Portuguese Nation a means of being worthily represented; and as an object of so great moment should be intrusted to persons who fear God, are faithful to the Throne, and lovers of their Country, I have been pleased, in the name of the King, for this purpose only, to nominate a Junta, of which the Bishop of Vizeu, a Peer of the Kingdom, shall be President; and the Viscount de Santarem, Antonio Gomez Ribeiro, Joaõ de Mattos e Vasconcellos Barbosa de Magalhães, Antonio José Guiaõ, José Ribeiro Saraiva, José Joaquim da Cruz e Carvalho, José Barata Freire de Lima, and Joaõ de Figueiredo, shall be Members; as also the Councillor Manoel José Maria da Costa, who

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shall act as Secretary. This Junta is to produce the result of its labours before me, in the form of a Consulta.

José Antonio d'Oliveira Leite de Barros, Minister and Secretary of State for the Interior, shall see the above executed, issuing for that purpose the necessary orders and directions.

(Signed) THE INFANT REGENT.

Palace of Ajuda, 13th March, 1828.

No. 23.

*Sir Frederick Lamb to the Earl of Dudley.—(Received April 3d.)*

(Extract.)

*Lisbon, March 22d, 1828.*

IN reply to the inquiry as to the state of public feeling in the Capital, I have to state, that, at the period of Don Miguel's arrival, all Parties were disposed to receive him with open arms; and that, for some days afterwards, all were content with the reception they had met from him. Nothing was then so easy, as the political administration of this Country; but to that state of things there is no return.

The most irreparable effect of Don Miguel's subsequent conduct, has been the total destruction of all confidence in him, and the memory of his former actions has been consequently revived, and is appealed to, as evidence of what is to be expected from him. In spite of all the efforts that have been used, no success has been obtained towards inducing the Country to declare itself for proclaiming him King.

On the other hand, no Party of any consequence appears to attach the least value to the Charter. Those who fear Don Miguel, rally in preference round the rights of Don Pedro, and a large majority of the Army appears disposed to the same course; but I have no doubt that the real wish of the mass of the Country is for tranquillity, and to avoid new Revolutions. It is this feeling which has produced a general alarm at the measures of Don Miguel, and a silent resistance to their further prosecution.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.

No. 24.

*Sir Frederick Lamb to the Earl of Dudley.—(Received April 23d.)*

(Extract.)

*Lisbon, April 12th, 1828.*

IT is believed here, that the call for the Sovereignty in Don Miguel, is to begin in Tras-os-Montes. The whole Country assumes a disturbed aspect; and the most violent language against the Liberals is permitted in the Newspapers, and employed from the Pulpit, and in the Addresses to Don Miguel from the Towns.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.

No. 25.

*Sir Frederick Lamb to the Earl of Dudley.—(Received April 23d.)*

My Lord,

*Lisbon, April 12th, 1828.*

I ENCLOSE the Original and Translation of an Address from the Chapter of Elvas, which I have just received, and of the Infant's Answer.

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These speak a language which is not to be misunderstood, and may be safely appealed to, as confirming all my views and reports up to the present moment.

I may now proceed to state, that it is represented to me as probable that, after a sufficiency of these Addresses shall have been procured, the ancient Cortes will be convoked, according to a form which gives to the Crown a right of exclusion against any Representative who may be disagreeable to it, and that this Assembly will be made use of to sanction the Infant's usurpation of the Crown. I cannot answer that this Project may not be varied, but I believe it at present to exist. It is further reported to me, that the Queen is not content therewith, but would prefer that the Infant should mount the Throne by his own act, unassisted. Others of His Royal Highness' Counsellors regret, that a previous intimation of the necessity of the case, should not have been made to the Foreign Courts.

Whatever may be the means adopted, this first public declaration of the Infant's sentiments must be regarded as decisive of the end. My only consolation is, that I have neither been led to deceive my Court upon the prospect before us, nor am I sensible of having omitted any effort to avert the result.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

(Signed) F. LAMB.

P. S. I add a Translation of a Letter from the Governor of Setuval, to th Municipalities within his District, inviting them to address the Infant to assume the Crown.

F. L.

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*First Enclosure in No. 25.—(Translation.)*

*Address from the Chapter of Elvas to, and Answer of, the Infante, Don Miguel.*

GOD has heard the ardent prayers of the Portuguese Nation, and has brought back your Highness triumphantly to direct the helm of the Monarchy, which to-day rules so gloriously, to the confusion of impiety, and of the rebellious spirit of the Age.

Virtue, placed upon the Throne, penetrates all hearts with its irresistible rays, and sooner or later, when strict justice and well-applied rewards shine forth, subjects to the gentle yoke of the rectitude of the Laws, even the turbulent enemies of tranquillity.

Thus Portugal exults to-day in seeing in Your Highness a model for Princes, formed in the school of the World, admired by the Nations and Monarchs of Europe, and destined, by the care and wisdom which Your Highness evinces in constituting the happiness of the Portuguese, to enter shortly into the class of the most celebrated of those mentioned in History.

If the happy return home of Your Highness has diffused joy through the whole Monarchy, that of the Chapter of Elvas was certainly excessive, which, having chosen us for the high honour of coming to kiss Your Highness's hand, on such a happy occasion, and penetrated with the most lively emotion on this most grateful and long wished for event, have charged us to express at the Royal feet of Your Highness, their profound respect, love and indelible fidelity to the August person of Your Highness, and their lively desire to address new thanksgivings to the Omnipotent, upon beholding the early consolidation of Your August Rights, as the general wish, and the ancient Laws of the Country imperiously demand.

The Infant Don Miguel answered, "The Deputation will thank the Chapter for the demonstration of their sentiments, which they have now expressed to him, and assure them that he will show on all occasions how much he wishes to contribute to the happiness of the Inhabitants of the City of Elvas."

*Second Enclosure in No. 25.—(Translation.)**Circular of The Governor of Setuval to the Municipalities within his District.*

Sir,

*Setuval, April 9th, 1828.*

KNOWING from undoubted Authority, that some Municipalities of the Kingdom have addressed a Representation or Solicitation to His Royal Highness Don Miguel, Regent of this Kingdom, in which they request His Highness to proclaim himself King, and the principal Articles of which are transcribed in the inclosed Paper, I lose no time in apprizing the Municipality of \* \* \* \* \* of the above, as I am very certain that they will with pleasure lose not amoment in taking a step to which their ideas and real sentiments tend, as well as those of the whole population, and which so absolutely conduces to the happiness of the Nation, by delivering over to His Royal Highness, Don Miguel, his undeniable Rights to the Crown of this Kingdom.

God preserve you.

(Signed)

DN. ALVEM DA COSTA DE SOUZA MACEDO.

The Representations of the Municipalities will turn upon the following two principal points :

1st. To beseech His Royal Highness that, in compliance with the general wish of the Nation, and the interest of the People, he be pleased to declare himself Legitimate King of this Kingdom, and its Natural Lord, not only because, by the Fundamental Laws of the Monarchy, the Rights of Legitimacy exist in the Person of His Highness, but by the general will of the People.

2dly. They beg the Abolition of the New Institutions, as contrary to the Privileges of the Nation, destructive of its Social Compact, and engendered by that same Democratic Faction which usurped the Sovereignty in 1820.

N. B. These Representations are transmitted through the Secretary of State for the Home Department.

## No. 26.

*Sir Frederick Lamb to the Earl of Dudley.—(Received May 7.)*

(Extract.)

*Lisbon, April 26th, 1828.*

YESTERDAY morning there was a tumultuous Assemblage of the Populace, proclaiming Don Miguel King.

The Senate met, and were proceeding to draw up the Act to that effect, when their President arriving, engaged them to alter it into an Address to His Royal Highness to assume the Crown, which was carried to him by Deputation. The Grandees afterwards kissed his hand a second time, which was understood by those present to be done to him as King.

None of the Ministers were at Court, but they met afterwards in Council, after which, an Invitation from the Police was published, inviting the People to return to their homes.

A Squadron of Cavalry would, at any time, have been sufficient to disperse the Assemblage.

In the evening a Note was sent, by the Viscount Santarem, to the Diplomatic Body ; I enclose a Translation of it, together with my Answer. The only object, I propose to myself therein, is to show that I am not the dupe of their assurances. An allusion being therein made to the Publications which have lately been permitted by the Censure, I annex two of them, which may serve as a sample of the rest.

This morning has appeared the enclosed Answer of the Infant to the Senate, and I conclude it to be, at the same time, the Decree of disapprobation promised in the Viscount Santarem's Note. I am at a loss, however, to discover in it even an expression of discouragement.

Don Miguel therein treats rebellion to Don Pedro as fidelity to himself, and plainly states the intention of complying with the wishes of the Senate, but by a mode which His Royal Highness reserves to himself. It is remarkable, moreover, that it is stated to be signed "with the Royal Signature," whereas the form of all former Decrees is "with the Signature of His Royal Highness the Infant," as your Lordship may perceive in the Decree, in the same Gazette, dated some days earlier. I am at a loss, after this, to say whether the Infant has assumed the Crown or not.

Some days back an attempt was made, by the Officers of the 8th Chasseurs, to induce the Soldiers of this Regiment to take part in a fête and illumination, during which the Infant was hailed as King, but the attempt failed.

The day before yesterday, the 16th Regiment turned out of their Barracks, and saluted the Infant, who was passing, with acclamations as King.

Yesterday the 19th Regiment moved, with their band and colours, to the place where the People were assembled, and took part in the acclamation, but were prevailed upon to return to their Barracks, though with difficulty. At night nobody was to be seen in the Streets. The boxes at the Theatre were well filled, but the pit not so; and, upon two occasions, the whole house rose at a signal given by a single voice from the pit, and, following that voice, *Vivas* were given to Miguel the First, King of Portugal, and to the Silveiras. The Leader was an Officer on duty, in his uniform.

*The Right Hon. the Earl of Dudley,*  
*&c. &c. &c.*

(Signed) F. LAMB.

*First Enclosure in No. 26.—(Translation.)*

*The Viscount Santarem to Sir Frederick Lamb.*

*Palace of Ajuda, April 25th, 1828.*

THE Undersigned, having received His Royal Highness the Infant Regent's most positive orders to that effect, has the honour to inform His Excellency Sir Frederick Lamb, &c. that, notwithstanding the most efficacious measures taken by the Government of His Royal Highness, and in the firmest manner, to contain within its limits the Public spirit of the whole Kingdom, and to avoid the possibility of a Civil War, by the use of coercion, to-day it was not possible to restrain the people of this Capital, and it burst forth in a tumultuous manner near the Senado da Camara. However, not only all the constituted Authorities employed every practicable means in such a delicate moment, but also the same August Personage, by a spontaneous Act, in the form of a Decree manifesting his sentiments, has disapproved of such illegal proceedings.

The Undersigned will shortly communicate to His Excellency the official Documents of all that has passed upon this subject, and avails himself, &c.

(Signed) THE VISCOUNT SANTAREM.

*His Excellency Sir Frederick Lamb,*  
*&c. &c. &c.*

*Second Enclosure in No. 26.*

*Sir Frederick Lamb to The Viscount Santarem.*

*Lisbon, April 25th, 1828.*

THE Undersigned, &c. has the honour to acknowledge the receipt of a Note from His Excellency the Viscount Santarem, &c., of to-day's date, acquainting him with the events of the day, and with the intentions which have actuated the Government of His Royal Highness the Infant Regent. This Communication is the more agreeable, as some of the Acts of the Go-

vernment, and particularly the toleration by the Censure, of the late Publications, had appeared to be open to an opposite interpretation. The Undersigned will lose no time in transmitting the Note of His Excellency the Viscount Santarem to his Government; which, in appreciating the sentiments therein expressed on the part of His Royal Highness, will anxiously await the Communication of the Decree manifesting his august disapprobation of such illegal Acts.

The Undersigned avails himself, &c.

*His Excellency the Viscount de Santarem,*  
&c. &c. &c.

(Signed)

F. LAMB.

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*Third Enclosure in No. 26.—(Translation.)*

*Article in the Lisbon Newspaper, "A Trombeta Final," April 21st, 1828.*

LEGITIMACY OF DON MIGUEL.

We have often heard the Legitimacy of Don Miguel called in question. Had that Prince, against the wish and demand of his people, adopted Laws rejected by the customs of the Nation; had he been content to suffer himself to be reduced to the condition of an Indian Rajah, by permitting an English Ambassador to govern in his place, he would have obtained the applause of the French liberals, and the eulogiums of the English journals. But that young Prince is not disposed to subject himself to the Law of Foreigners; he listens to the voice of his People, who desire him to annul a pretended Constitutional Act, created in four days, and in a Foreign Country, and which arbitrarily changes the order of succession to the Throne of Portugal. This is the reason why Liberalism accuses Don Miguel of treason and of usurpation.

We shall not repeat what we have several times observed respecting the incontestible rights of Don Miguel to the Throne of Portugal; only bad faith and the spirit of Party can deny a principle on which the Portuguese no longer entertain any doubt. We shall only make our Readers acquainted with a Pamphlet which has just been published, under the title of "Don Miguel and his Rights."

The estimable Author of that little Work, who, very properly, defines Legitimacy to be *the just possession of acquired rights*, proves that, at the present day, the Portuguese Crown belongs not to Don Pedro, but to Don Miguel; he particularly demonstrates that that Crown can in no case revert to the young Princess Dona Maria, who is not a Native of Portugal, even though the rights of her Father should be admitted.

The Author compares the Legitimacy of Don Pedro to that of Philip II., King of Spain, who erected himself the Sovereign of Portugal, after the decease of King Sebastian. It may be added that the Coronation of Don Miguel, bears a great resemblance to the Usurpation and Rebellion of his Ancestor, the Duke of Braganza, in 1640.

The fundamental Law of Lamego, the Pamphlet proceeds, grounded upon a free and mutual Convention, which was sworn to, established the order of lineal succession of male to male, and further decreed:—

"That no foreign Prince could become Sovereign of the Kingdom:—  
"that if the King had only one Daughter, she should be obliged to marry a  
"Portuguese, as otherwise she could not reign, since the Nation was not  
"bound to obey any Sovereign, other than a Native of Portugal."

We accept, for the Infant Don Miguel, the title of *Counter-Revolutionary*, given him by the liberal prints, and by the English publicists, because he is

such in the same manner as the Duke of Braganza, when he rescued his Country from a foreign yoke.

The Exposition under review, remarks, that on the meeting of the States of Lisbon, convened in 1641, at the Restoration of the Kingdom, in the same manner as the States of Lamego were assembled at its foundation, the King and the People, once more united, did unanimously, and in a form the most absolute, as well as the best adapted to the interests of the State and of the Prince, adjust the conditions of naturalization, and the order of succession.

It was laid down, in accordance with the first Contract :

“ That the Succession of Portugal could never revert either to a Foreign Prince, or to his Sons, even if they were the nearest relations of the King, the last in possession ; and, it was added to this fundamental Condition, that in case the King of this Realm should be called to succeed to another Crown, or to a larger Empire, he should be obliged to reside in Portugal : that if he had two Sons, the eldest Son should take on himself the Government of the Foreign Kingdom, and the Second should Reign in that of Portugal, and that the latter only should be acknowledged Heir and Legitimate Successor.”

Now, as it suits the British Cabinet to keep away the Infant Don Miguel from the Throne, because it better accords with its interests that this Kingdom should be governed by a Regency, under the direction of an English Ambassador, it necessarily follows, that the Portuguese ought to expunge their fundamental Law, invert the Order of Succession, and even consider as null, the Act by which Don Pedro, in a Treaty with his Father, solemnly acknowledged the separation of the Empires, and also the Abdication of Don Pedro, by which that Monarch confirms, and upholds in his Person, the condition of a Stranger to Portugal.

We shall conclude this Article by adducing one of the last paragraphs of the Paper whose spirit and object we have just been communicating.

“ If, contrary to all order, reason, and equity, the Mother Country, which refused to be ruled by the Sceptre of the Grandsons of Charles V., and of Manoel, should submit to the Laws of the Colony (Brazil), then, and on a much juster ground, too, than the generous Camoens did, on learning the calamity of Alcacer, every good Citizen might exclaim, that Portugal, his Country, has ceased to exist.”

It is, therefore, truly asserted, that insignificant Protocols, ardent Declarations, and illegal Enactments, cannot constitute Legitimacy, which exists alone in the conditions of the vital and positive principle, established in the Contract ; and, with regard to Portugal, this principle of life, this essential reason, is the naturalization and the residence.

Don Miguel, therefore, as the Lieutenant of Don Pedro, is a revocable Agent ; the question is always the same ; it is the Colony that rules the Mother Country, and it is likewise a Foreign and absent Prince who governs in fact ; the conditions of Lisbon and of Lamego cannot be fulfilled by Don Miguel the Regent, but they can be so by Don Miguel the King. By this dignity only, and in this manner, is it possible to decide the question of Legitimacy, established on the paramount condition of maintaining and saving the Empire.

And, supposing that the Infant, now King, had effectually, by his acts, renounced the rights which he has lawfully acquired, those rights would not belong to Don Pedro, who is both a Foreigner and absent :—there are other Members of the House of Braganza, who are neither Foreigners nor absent.  
(*Extract from the Quotidienne of 27th March.*)



*Fourth Enclosure in No. 26.—(Translation.)**Article in the Lisbon Newspaper, "A Trombeta Final," April 21st, 1828.*

**CIRCUMSTANTIAL** Account of the Festivities given by the Military Portuguese residing in Chelva, in the Kingdom of Valencia, in celebration of the happy return of the Most Serene Infant Don Miguel, to Lisbon.

The 25th day of March of the present year, was the day chosen to celebrate the entry of the Most Serene Infant DON MIGUEL into Lisbon; the preceding day, from 10 in the morning till 12 at night, having been rendered remarkable by discharges of rockets and fire works; an excellent band of music, setting out from the Royal Square, proceeded through the streets of this town, playing the Portuguese Hymn, accompanied by a great number of Portuguese, wearing letters indicative of the love, respect and veneration which we consecrate to our ANGEL, and his virtues; and all things were done with the greatest possible order and tranquillity. The 25th day dawned, and was ushered in by the rockets and fire-works, which had been attached the day before to a lofty tree in the Royal Square; the fountain situated in the centre was ornamented with boughs and laurels, and in front of the principal Church was hung an elegant and richly illuminated picture of His Catholic Majesty, with mottos in praise of the Portuguese Emigrants in this Country. The Plaza, which forms an imperfect square, capable of containing at least 14,000 persons, was adorned, in front of the Church, by two full length portraits of His Catholic Majesty, and of the Most Serene Infant DON MIGUEL, with this inscription over them, "Long live the Roman Catholic Religion!" the portico of the Church was ornamented with two shields, bearing the arms of Spain and Portugal, covered with laurel, and encircled by a brilliant light: on the right side was a large pedestal, with a motto indicative of the constancy of character and fidelity of the Portuguese Emigrants to the altar and throne; on the left side a beautiful cornice was placed over a window, with words descriptive of the virtues of the Sovereign; and above that, a picture of His Catholic Majesty, seated under a rich canopy with a crown, bearing the motto "Long live Dona Maria Amelia, Queen of Spain!" On the left side of the portico there were similar devices, with this difference, that these mottos and emblems were dedicated to the love of our ANGEL, and to the praises of the Portuguese Emigrants; and in the window was a portrait of the said August Lord under an elegant and rich canopy, with the motto "Long live the Empress Queen of Portugal!"

In the morning there was a grand Mass, in which the Eucharist was held up, and on raising the Host a *feu de joie* took place, and Te Deum was performed; and between two and three a sermon was preached, in which the brilliant qualities of the Most Serene Prince DON MIGUEL were eulogized, and it was demonstrated that infinite benefit would accrue from his arrival, not only to Portugal, but to all Europe, by destroying the Free-Masons, and elevating the Royalists. After the sermon there was a procession of the Most Holy Sacrament, in which Officers of all ranks took part, in all about 300 persons, accompanied by music playing the Royalist Hymn. The bells chimed, fireworks were displayed, the windows were richly adorned, and elegant ladies seated at them enlivened the hearts of the persons engaged in the festivity. At eight at night the illuminations began, amounting to about 8,000 lights, which were renewed for three successive evenings—the greatest part of the Town was illuminated, and music and poetry, till morning, lent their aid to heighten the delights of the festive scene, inspiring the purest joy, increased by the good will of our Spanish friends, whose enthusiasm was augmented by ours, in a firm adherence to the cause of the Throne and of the Altar.

*Fifth Enclosure in No. 26—(Translation.)*

*Decree of the Infant, Don Miguel, in Answer to the Address of the Senate and Inhabitants of Lisbon, inviting him to assume the Crown.*

*April 25th, 1828.*

IN Answer to the Representation which the Senate of Lisbon, as representative of this noble and ever loyal City, has this day laid before me, I am pleased to reply to it, that my own dignity, and the honour of the Portuguese Nation, requiring that matters so grave as those contained in the above-named Representation be treated of in a legal manner, as established by the Fundamental Laws of the Monarchy, and not in the tumultuous manner which unhappily took place in 1820; I feel assured that the Senate, and the honourable Inhabitants of this City, after having addressed me in the terms befitting them, will give to the World and to posterity another proof of their fidelity, by awaiting quietly in their respective homes those further measures, the taking of which appertains to me alone.

*Palace of Ajuda, April 25th, 1828.*

(With the Royal Signature.)

## No. 27.

*Sir Frederick Lamb to the Earl of Dudley.—(Received May 22.)*

(Extract.)

*Lisbon, 30th April, 1828.*

AN Invitation, to sign the Address of the Senate to Don Miguel, has been posted up by authority throughout the Town. The Police has applied to many, who have neglected to comply.

The Nobility have been applied to, to sign a Representation to the Infant, which is to be presented to him to-day.

It sets out with the principle, that Don Pedro's right to the Crown of Portugal existed only until his option was made; that, from the moment when his choice of the Brazilian Crown was declared, the rights of Don Miguel began, and that, consequently, all Acts since done in Don Pedro's name (the Constitutional Charter included) are illegal. The Representation requests the convocation of the three Estates of the Kingdom, for the purpose of recording the right of the Infant to the Crown.

*The Right Hon. the Earl of Dudley,*  
*&c.      &c.      &c.*

(Signed) F. LAMB.

## No. 28.

*Sir Frederick Lamb to the Earl of Dudley.—(Received May 21.)*

(Extract.)

*Lisbon, May 3rd, 1828.*

I ENCLOSE Copy of the Representation of the Nobility. It is stronger than had been stated to me. Your Lordship will be aware that a large proportion of the signatures to it are those of Persons attached to the Charter, and who sign from no motive but fear.

The assembly of the Cortes is not to infringe the principle of the pure and absolute Monarchy. Their duration is to be short; they are not a consultative Assembly, and their functions are limited to the single Act for which they are convoked.

*The Right Hon. the Earl of Dudley,*  
*&c.      &c.      &c.*

(Signed) F. LAMB.

*Enclosure in No. 28.—(Translation.)**Representation of the Nobles to the Infant, Don Miguel.*

Sir,

THE undersigned Nobles, as well individually as representing the whole body, filled with the greatest respect and reverence, here spontaneously supplicate Your Highness to be pleased to accede to the wishes of a whole Nation, which desires and requires to see Your Highness seated on the Throne of Your August Royal Predecessors, in as much as by the Fundamental Laws of this Monarchy, it, of strict right, belongs to you. The Nobles of Portugal always have been, are, and never will cease to be, the firmest support of the Throne. In all the most memorable epochs recorded in history, they have ever given the most decided proofs of their honour and fidelity; and, in the present circumstances, they cannot but take an active part in the very important subject, which now occupies the whole Nation. The Nobles have, therefore, the honour of submitting to Your Highness, the necessity of realizing their pure and loyal wishes; of representing to you, that the measure the most certain of success, the most conformable to the dignity of Your Highness, and to the Fundamental Laws of this Monarchy, is the immediate convocation of the Three Estates of the Kingdom, according to the ancient usages and customs, for the purpose of therein treating of matters of the highest importance,—such as, of recognizing with solemnity the legitimate rights of Your Highness to the Crown of Portugal and its Dominions, and of abolishing the so-called Constitutional Charter of the Portuguese Monarchy, inasmuch as it was granted by a Monarch, before allegiance had been sworn to him, and he had been recognised by the Nation, as King of Portugal, and as it essentially changed the order of succession to the Throne.

The Nobles trust to the high wisdom of Your Highness, for a glorious termination to such a just and blessed request, for the general good of the Nation; and in the meanwhile, they can but beseech with fervour, and hope with the greatest confidence, that Your Highness may be pleased to receive their wishes with benignity, and provide a prompt redress for the object of their solicitations.

Lafoens. Lourical. Borba. Olhaõ. Sabugoza. Lavrodio D. Antonio. Penalva. Pl. Silva. Conde Belmonte. Pai e filho. Asseca. Almada. Souve. Rodondo. S. Vicente. Conde de Viana. Atalaga. Cea. Porto Santo. Carvalhaes. Mesquitela. B. d'Alvito. Bahia. D. Prior de Guimaraens. Nuna Manoel. Ce. Bobadella. Prior Mor d'Aviz. Torres Novas. Bellas. S. Lourenço. Figueira. Castro Masin. S. Miguel. Souzal. Barbacena Fran<sup>co</sup>. Torre Bella. Cintra. P<sup>i</sup> Freire. Menezes. Lencastre. Corte Real. Lamara. Visconde de Magé. Paraty. Valladares. Villa Nova da Rainha. Soubral. Furtado. Peniche. Alhandra. D. Francisco d'Almeide. Ega. Rio Maior. Pova. Estremoz. Juromenha os 2. Souto d'El Rey. Povolide. Vallada. Villa da Praya. Beduido. Azurara. Manique. Anadia. Taucos. Redinha. Pombal. M<sup>r</sup> de Viana. M<sup>r</sup> d'Alvito. Sande. Queluz. Pombeiro. Vagos. Arcos. Portella. Subsera. Louzaõ D Luiz. B. de Tavares Beire. Rezende. Veiros. Ponte. Galveas. Valença. Quintella.

## No. 29.

*Sir Frederick Lamb to the Earl of Dudley.—(Received May 27.)*

(Extract.)

*Lisbon, May 7th, 1828.*

A COPY of your Lordship's Note to the Marquis Palmella was received by this Government on the morning of the 2d. On the same day a Council was held in which it was resolved to convoke the Cortes. The Decree was signed on the 3d and published on the 6th.

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I could not but feel that the voice of the Cortes, though illegally convoked, would yet have the effect of giving to the usurpation a character of conformity to the views of the Nation, and of consequent legality which it would otherwise want. Whether the views of my Government might ultimately tend to the recognition of the usurpation or to its overthrow, it was equally clear that, either to give additional value to its acquiescence, or additional force to its efforts to remove Don Miguel from the Throne, it was equally desirable, that his present proceedings should be stamped with the utmost character of illegality, and the Cortes be declared null, even from the moment of their convocation.

My mode of acting having been determined by these considerations, the next question was how to give it the greatest weight. It was evidently desirable that as many of the Colleagues of M. de Bombelles and myself as possible should take the same line as ourselves, and by speaking to them singly, Count Bombelles and myself succeeded ultimately in engaging them all to act as we did. This was the more remarkable, as unanimity was the only condition upon which some of them would engage in the course proposed to them.

It next became a question at what period and in what manner to notify our intentions to the Portuguese Government, and upon discussing these questions it was felt to be unworthy of our Courts to lie in wait in order to strike an unexpected blow, while the measure we meditated was calculated to be more effective as a warning than as a consequence.

As there existed, however, nothing upon which to found an official notification, it was determined that the Spanish Minister, who had the earliest opportunity of seeing the Viscount Santarem, should communicate to him our intentions. This was done accordingly on the morning of the 5th instant, not as a menace, but as a confidential and friendly intimation.

The terms of the Decree of Convocation have, however, done much towards reconciling all Parties to the step to which they had engaged themselves. The Royal style adopted in it, and the omission of the usual form of acting in the name of the King, make it in effect an assumption of the Royal Dignity.

I enclose a copy of Viscount Santarem's communication to the Diplomatic Body, and one of their common answer, annexing a list of the Powers by whose Agents here it has been adopted.

(Signed) F. LAMB.

*The Right Honourable the Earl of Dudley,*  
 &c.      &c.      &c.

*First Enclosure in No. 29.—(Translation.)*

*Decree for Convoking the Three Estates of Portugal.—May 3d, 1828.*

THE necessity for convoking the Three Estates of the Kingdom, already acknowledged by the King; my Father, in the Decree of the 4th June, 1824, having much increased in consequence of ulterior events, and being desirous of complying with the urgent representations which the Clergy, the Nobility, the Tribunals, and all the *Cameras*, have conveyed to me on this subject; I am pleased, conformably to the opinion of Persons skilled, and solicitous for the service of God, and the welfare of the Nation, to convoke the said Three Estates of the Kingdom for this City of Lisbon, within thirty days from the date of the Decree of Convocation, in order that, in a solemn and legal manner, and according to the usages and practices of this Monarchy, and in the forms exercised on similar occasions, they may recognise the application of important points of Portuguese Law, restore peace and public tranquillity, and be enabled to agree upon a course for the satisfactory management of all the important Affairs of the State.

My Council of Ministers is charged so to understand, and have it fulfilled.  
*Palace of Ajuda, May 3d, 1828.*

*Second Enclosure in No. 29.—(Translation.)**Viscount Santarem to the Ministers of Foreign Powers at Lisbon.**May 6th, 1828.*

THE Undersigned, &c. by the Infant Regent's Orders, has the honour of informing Sir Frederick Lamb, &c. that His Royal Highness, having taken into consideration the very critical circumstances of these Kingdoms, and the representations addressed to Him by the Clergy, Nobility, Tribunals, and all the *Cameras*, praying and reclaiming, in the forms which have belonged to them since the commencement of the Monarchy, by Laws not yet abrogated, that He should be pleased to convoke the States, for the purpose of therein recognizing important points of fundamental Portuguese Public Law; His Royal Highness has judged that the above-mentioned Convocation is the best measure for restoring harmony and public peace in these so strongly agitated Kingdoms.

The Undersigned, &amp;c.

(Signed) VISCONDE SANTAREM.

*Third Enclosure in No. 29.**The Ministers of Foreign Powers at Lisbon to Viscount Santarem.**Lisbonne, ce 8 Mai, 1828.*

LE Soussigné, &c. a reçu la Note en date du 6 de ce Mois, que son Excellence le Vicomte de Santarem, lui a fait l'honneur de lui adresser. La Communication qui en est l'objet met le Soussigné dans la nécessité de regarder ses Fonctions Diplomatiques comme suspendues, d'en référer à sa Cour, et d'attendre ses ordres.

*Son Excellence le Vicomte de Santarem,*

&amp;c. &amp;c. &amp;c.

(Translation.)

*Lisbon, May 8th, 1828.*

THE Undersigned, &c. has received the Note under date the 6th of this Month, which his Excellency the Viscount de Santarem has done him the honour to address to him. The contents of that Communication places the Undersigned under the necessity of regarding his Diplomatick Functions as suspended, of referring the same to his Court, and of awaiting its orders upon the subject.

*His Excellency the Viscount de Santarem,*

&amp;c. &amp;c. &amp;c.

*Fourth Enclosure in No. 29.*

List of the Powers by whose Agents the Note announcing the suspension of their Diplomatic functions has been adopted.

Court of Rome.  
Russia.  
Austria.  
England.

Prussia.  
France.  
Spain.  
Netherlands.

Denmark.  
Sweden.  
Sardinia.  
Naples.

No. 30.

*Sir F. Lamb to the Earl of Dudley—(Received May 24.)*

My Lord,

Lisbon, May 17th, 1828.

THE internal measures of this Government continue in the same direction and with the same violence as before. Don Alvaro da Costa, late Governor of Setubal, who first came forward to excite the Acclamation, has been promoted to the Government of the Province of Minho, where the late Governor, not having been sufficiently energetic in promoting it, has been dismissed.

The changes in the Army continue; six Colonels of Regiments having been announced as removed, and replaced, in the Gazette of the 13th, independently of other Officers of all ranks.

By the Gazette of this day, the Corps of Commerce, consisting of one Regiment of Infantry and one of Cavalry, as well as two Militia Battalions of Chasseurs, and two of Artillery of this Town, are dissolved. It is to these measures I look as the most certain indications of the further intentions of this Government.

I have the honour to be, &amp;c.

The Right Hon. the Earl of Dudley,  
&c. &c. &c.

(Signed) F. LAMB.

No. 31.

*Sir Frederick Lamb to the Earl of Dudley—(Received June 3rd.)*

My Lord,

Lisbon, May 28th, 1828.

YOUR Lordship's Despatch, conveying to me the orders to discontinue my attendance at Court, has given me great satisfaction, as indicating the probable approbation of the more decided measure taken by the suspension of my functions. Had I failed in obtaining so general a concurrence in it from my Colleagues as to render its adoption on my part advisable, it was my intention, when the moment came, to have taken the line now directed by your Lordship, unless an assurance had been given to me against the renewal of such scenes.

I have the honour to be, &amp;c.

The Right Hon. the Earl of Dudley,  
&c. &c. &c.

(Signed) F. LAMB.

No. 32.

*Sir Frederick Lamb to the Earl of Aberdeen.—(Received July 10.)*

My Lord,

Lisbon, June 24th, 1828.

THE Cortes met yesterday. His Royal Highness the Infant was present upon the Throne, but did not speak.

The Bishop of Vizeu opened the proceedings by a speech, whereof I enclose a translation.

It appears to me to state, implicitly, that His Royal Highness only defers taking the Crown until the Three Estates shall have recognised the validity of his right to it, which is in itself incontestable.

This Speech was answered by a much more violent one from M. das Neves, Deputy for Lisbon, stating that neither Don Pedro nor his Daughters had any right to the Crown of Portugal, and qualifying the resistance at Oporto as a Military revolt, proceeding from the same sources as the Revolution of 1820, and to be put down in the same manner.

After this, the Cortes separated. They will meet again to-morrow, each branch in a separate Church. The points to be established by them are three

1st. The rights of the Infant.

2nd. His Royal Highness's marriage at an early period.

3rd. The succession to the Crown, failing heirs of his body.

As the decision to be taken on each of these three points is, of course, already determined upon, the proceedings may be closed within the week; but I cannot say that it may not be thought fit to protract them.

I have the honour to be, &c.

*The Right Hon. the Earl of Aberdeen,*  
&c. &c. &c.

(Signed) F. LAMB.

P. S. I enclose the Gazette of to-day, which there is not time to translate; the Article, giving an account of the proceedings of the Cortes deviates widely from the measured language of the Bishop of Vizeu; so much so, that none of my Colleagues doubt whether such a statement, published under the Censure, in the Government Gazette, although in its unofficial part, does not amount to such an assumption of the Royal title as to warrant our departure. Upon this occasion, I shall adopt, in remaining, the decision which I think the safest, not the best.

Another Article of the Gazette contains denunciations of punishment against those Portuguese who are expected from London. The terror here augments; the Countess Saldanha has been forced to fly, and the Marchioness of Nysa and the Countess of Rio Mayor are in danger of being arrested, because their Sons, who are Minors, did not sign the Representation to the Infant, urging him to call the Cortes.

F. L.

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*First Enclosure in No. 32.—(Translation.)*

*Speech of the Bishop of Vizeu on the Opening of the Cortes, June 23d, 1828.*

AN unanimous voice resounded through the Kingdom. All the Portuguese (and truly may it be said all) have offered up their most ardent and most sincere supplications to the August Prince who governs us, that He would deign to ascend the Throne of his Ancestors, and thus put an end to that fluctuation and uncertainty of the Supreme Government, which of all political disasters may be considered as the greatest. The Nobility, the Clergy, the Tribunals, the Camaras, the Citizens, have been all agreed; with this sole difference,—in some the patriotism, less restrained or more determined, proceeded immediately to the Act of Acclamation, which others merely represented as indispensable, and solicited, as ordained by the Laws and ancient usages, and demanded by the most urgent necessity of the State: perfectly agreed in the desire, in the opinion, and in the principles on which they were founded. The only discrepancy was in the greater or less resolution.

The great Prince could not neglect the voice and representations of Corporations and of Citizens, whose propositions regarded the benefit, nay more, the necessity of the Country, and which they put forth in accordance with its usages and its Laws.

To no Portuguese does the name of his Country sound more sweetly than to our Prince—none has more at heart her glory and happiness. He passionately desires the advancement and security of her true interests—he venerates her discreet usages and forms. He respects the wisdom of her Laws; at the same time he could not be, nor is he, insensible to the cry of loyalty and love of his person, which, from the moment of his arrival, was raised in every part of Portugal. Ill could a noble mind resist the gentle force done him by the people with their demonstrations of love, which has not, nor could have, any view but the welfare of the Country, and the hope of remedying its misfortune. Nor was it a slight difficulty then to deny their solicitations, which the common good demanded, which must be considered before their zeal.

But since justice is the first consideration,—since he profoundly respects the Laws; from the Law he demands all, and refuses, without hesitation, whatever may not be accorded him by the Law. The Kingdom has its own Laws of

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**Succession to the Crown**—established from its foundation—religiously observed by it, whenever it has not been deprived of the full use of its liberty—loudly and enthusiastically invoked and demanded, at a proper time, if upon any occasion foreign violence may have extinguished them. Repeated, explained, fortified by its provident precaution, when sad experience has caused it to fear future ambition, and to remove every shadow of pretence under which at another time an insolent abuse of power might conceal itself.

If the tenour of these respected laws, or what is the same, if the Fundamental Law of the Monarchy calls our Prince to the Succession of the Crown, he cannot but pride himself (under so sacred a title) in presiding over a generous Nation. But is he, in fact, on this occasion, called by the Laws to the Succession of the Portuguese Crown? This is the important question which the general interest demands, and which, therefore, the August Prince desires should be determined, without delay, but, at the same time, with a deliberation befitting its high importance. The enthusiasm of our Patriots, and the ardour of his most moderate Friends, have so decidedly settled this in the affirmative, that they are impatient at the discreet means by which severe justice would remove every doubt. But it would be highly improper, and, with reason, blameable, in so important an affair, to listen only to the passions, which, though not always false, are ever suspected. It is true that the representations of the different *Classes* and Corporations, whose votes are less to be suspected of prejudice, speak the same language on this point with the acclamations of love and exalted patriotism. Still the well-known firmness of our Prince did not consider this sufficient. He determined to submit to a new proof the declarations of the *Classes* and Corporations, and to bring them before a Tribunal, more competent, because authorized by the Laws—more zealous and discreet, because in prudence, rank, and wealth, it unites all that the Nation possesses most eminent—of greater weight, because its judgment in this matter is legally the judgment of the whole Kingdom.

It is not necessary to say, that by this Tribunal I mean the Assembly of the Three Estates—Clergy, Nobility, and People, to whom the ancient Portuguese had recourse upon all important occasions of the settlement of the Kingdom. On this certainly most important one, our August Prince restores it, in his high wisdom, shewing at the same time his Royal integrity, his respect for the Institutions of his Country, and his full confidence in the intelligence of the Nation. He has convoked it for the purpose of considering well the letter and the spirit of our Fundamental Laws—of recalling the events in our history, in order to collect from them the true national opinion in all times, and of comparing the present case with what is said concerning the Succession to the Throne; in order to declare whether the application to the person of His Highness, which the *Classes*, the Tribunals, and the Camaras have in their representations drawn from the Laws, be conformable to their true spirit and to the common national sentiment. This is the object which His Highness proposes for the deliberation of the States—each branch, according to ancient forms, will deliberate and confer with the gravity due to themselves, to the importance of the affair, and to the advantage and honour of the Portuguese Nation—and, finally, it will come to a judgment, from which it will draw up an authentic Document, declaring to whom the Succession belongs at this time, and settle the same for the future.

May posterity look to the present Assembly and its results with the same consideration and satisfaction, as we look even now to the Assemblies of 1385 and 1641.

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*Second Enclosure in No. 32.—(Translation.)*

*Article in the "Gazeta de Lisboa".—24 June, 1828.*

*Lisbon, June 23, 1828.*

THIS day the Three Estates of the Kingdom assembled in the Royal Palace of our Lady of Ajuda, convoked by virtue of a Decree of the 3rd of last



month. A respectable and truly august Assembly of the Portuguese Nation ; which, since its first meeting in Lamego in 1143 until now, has been called together, on affairs of moment, nearly a hundred times ; and which the Lord Dom Joaõ VI. (whom may God keep) for the most just causes, was intentioned to convoke ; as was proved by his immortal Decree of the 4th of June 1824, but which desire he never could fulfil ; God reserving that glory for his August Son, the Lord Dom Miguel I., his legitimate Successor to the Crown of these Kingdoms of Portugal and Algarves and their dominions, who, in order to confuse their and our enemies, does not intend to assume or bear the sceptre which the most evident and solemn titles ensure, until his incontrovertible rights shall have been deliberated upon by the National Congress, assembled in the legal form established at the foundation of this Monarchy.

This venerable Assembly of Prelates, Grandees of the Kingdom, and Procurators of the cities and towns of note therein, who had a seat in the Cortes, began to collect in the Palace before three o'clock in the afternoon, and, when all were seated in the magnificent apartment allotted for that purpose, at five o'clock, the August Prince entered, habited in the ancient Portuguese costume (as were all the Personages who had a vote in the Cortes, except the Clergy and Magistrates) and preceded by the Mace-bearers, Kings of arms, Herald, Poursuivants, and a Royal Retinue, proceeded, amidst music, towards the Throne, when the door was shut against all those who had no vote in these solemn proceedings. The Procurators of the country being seated on their proper benches, and the Clergy and Nobility on theirs, the Duke of Cadaval, acting as Constable, and holding the raised sword, the most excellent and most reverend the Bishop of Vizeu read the Speech of proposition to the Cortes ; and, that finished, the Desembargador, Jose Accursio das Neves, one of the Procurators for the City of Lisbon, read the answer, this being his right by ancient usage.

These readings being finished with general applause, His Majesty descended from his Throne, and, amidst music, returned, with the same order and state, to his Apartment, whence he proceeded to the Hall where they kiss hands ; and that ceremony was performed by the Three Estates and many other Persons who had resorted to the palace upon that solemn occasion.

In the vestibule of the Palace a Brigade of Royalist Volunteers, composed of distinguished Persons, were arranged with great regularity ; and so well were they equipped, that it appeared incredible that so brilliant a Corps could have been entirely formed in three weeks.

The *vivats* and shouts of the immense population crowded about the place were incessant ; above all on the departure of the Members of the Three Estates. These Personages are again to meet, with the most perfect liberty, on the 25th instant, in order to complete their proceedings :—the Clergy in the Church of Santo Antonio da Sé ; the Nobility in the Church of S. Roque ; and the Procurators of the Towns in S. Francisco da Cidade.

### No. 33.

*Sir Frederick Lamb to the Earl of Aberdeen.—(Received July 13th.)*

(Extract.)

*Lisbon, July 1st, 1828.*

I ENCLOSE Copy and Translation of the Decree of the Infant, whereby he declares himself to have been King since the death of his Father, and also of his Reply to the Petition, recommending his early marriage. By this, the question of his marriage with his Niece remains open.

In the Gazette of to-day has appeared a Decree, directing in its effect, though not in words, that Don Miguel shall be prayed for in the Churches by the title of King.

In consequence of these Acts, I have addressed (in compliance with the orders of my Government) the enclosed Letter to His Majesty's Consul.

*The Right Hon. The Earl of Aberdeen,*  
*&c. &c. &c.*

(Signed) F. LAMB.

*First Enclosure in No. 33.—(Translation.)*

*Decree of the Infant Don Miguel, respecting his assumption of the Throne.*

*June 30th, 1828.*

HAVING maturely considered the important affair before the Three Estates assembled in the Cortes (convoked by me), who have presented to me the Resolutions adopted by each Branch; by which it is established, that, according to the provisions of the fundamental Laws of the Monarchy, I was called to the possession of the Crown of these Kingdoms; begging me, therefore, to be pleased to assume the Dignity of King and Lord over them, which Dignity had devolved upon me since the decease of the King, my Lord and Father, of blessed memory. Reflecting, moreover, that it is incumbent on me implicitly to follow the above mentioned Fundamental Laws of the Monarchy, on which the Portuguese Throne is based; I am pleased, for these reasons, to agree in all respects to the said Resolutions of the Three Estates, the principles upon which the said Resolutions are founded being equally applicable to the present generation and to posterity.

It is further my pleasure that, after the manner practised in the Cortes of 1641, an Act be drawn up, and signed by all and each of the Three Branches, with their reasons for so doing.

With the Signature of Our Lord the King.

*Palace of Ajuda, June 30th, 1828.*

*Second Enclosure in No. 33.—(Translation.)*

*Answer to the Petition of the Three Estates, that His Majesty would be pleased to select a Royal Consort.*

I AM grateful to the Estate of the ——— for the zeal shewn by it for the security of the Succession to the Crown of these Kingdoms, and shall not fail to treat so important an affair, in the manner which may be most suitable to the interests of the Monarchy.

With the Signature of His Majesty.

*Palace of Ajuda, June 30th, 1828.*

*Third Enclosure in No. 33.—(Translation.)*

*Circular of the Department for Ecclesiastical Affairs and for Justice.*

Most Reverend Sir,

*Palace of Ajuda, June 30th, 1828.*

THE King our Lord is pleased to cancel the Order (Avizo), by which was regulated the Form to be used in giving the Collect of the Mass, in order that Your Eminence may cause to be observed the usages of the Portuguese Church in this respect.

I communicate the above to Your Eminence for your information, and for the execution of the same.

(Signed)

LUIZ DE PAULA FURTADO  
 DE CASTRO DO RIO DE MENDOCA.

Orders of this tenour and date were sent to all the Diocesans of the Kingdom.

*Fourth Enclosure in No. 33.**Sir Frederick Lamb to Mr. Consul-General Matthews.*

SIR,

*Lisbon, July 1st, 1828.*

THE moment foreseen by my Instructions being arrived, you will have the goodness to announce to the Viscount de Santarem that my Embassy is at an end, and that I shall quit Lisbon as soon as my health will permit.

I have, &amp;c.

*Robert Matthews, Esq.*

(Signed) F. LAMB.

## No. 34.

*Sir Frederick Lamb to the Earl of Aberdeen.—(Received July 13.)*

MY LORD,

*Lisbon, July 4th, 1828.*

I ENCLOSE a Proclamation of Don Miguel's, establishing his Titles as King.

I have the honour to be, &amp;c.

(Signed) F. LAMB.

*The Right Honourable the Earl of Aberdeen,*  
 &c.      &c.      &c.

*Enclosure in No. 34.—(Translation.)**Proclamation of Don Miguel, establishing his Titles as King.—July 1st, 1828.*

HAVING assented to the representations made to me by the Three Estates of the Kingdom, called to form a Cortes in this noble and ever-faithful City of Lisbon, in order to take into consideration the Public Law of the Monarchy; and accepting the Title and Dignity of King, which belongs to me in virtue of its Fundamental Laws, which it becomes me faithfully to execute, and to cause to be executed; I, accordingly, think proper, that from this day forward, the following Formulary be used:

In the Letters of Law, Laws, Patents, and Ordinances of Tribunals, "Dom Miguel, by the Grace of God, King of Portugal, and of the Algarves, "on this side of, and beyond, Sea, in Africa, Lord of Guinea, and of the Conquest, Navigation, and Commerce, of Ethiopia, Arabia, Persia, and India, "etc."

In the Alvarás, "I, the King." In the Portarias, Notices, or in any Orders or Mandates, "The King, our Lord, orders or commands."

The Decrees and Resolutions of Councils shall continue to employ the Form always used by all the Sovereigns of this Monarchy, my glorious Ancestors.

José Antonio d'Oliveira Leite de Barros, Councillor of State, Minister and Secretary of State for the Affairs of the Kingdom, intrusted also with those of the Navy, and those beyond sea, will, in conformity with the above, cause it thus to be put into execution, adding the necessary Instructions and Communications.

*Palace of our Lady of Ajuda, July 1st, 1828.*

With the Rubric of THE KING OUR LORD.

*Communications with the Marquis de Barbacena, respecting his demand for Assistance from Great Britain in support of the Rights of Donna Maria II. as Queen of Portugal. 1828, 1829.*

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No. 35.

*The Marquis de Barbacena to the Earl of Aberdeen.*

*Londres, ce 25 Novembre, 1828.*

LE Soussigné, Plénipotentiaire de Sa Majesté L'Empereur du Brésil, s'acquitte du devoir sacré, qui vient de lui être imposé par son Auguste Maître, en adressant à Son Excellence, Monsieur le Comte d'Aberdeen, Principal Secrétaire d'Etat de Sa Majesté Britannique, au Département des Affaires Etrangères, la demande officielle de l'appui de Sa Majesté Britannique en faveur de Sa Majesté La Reine de Portugal, et la réclamation de secours effectifs pour aider à placer Sa Majesté Très Fidèle sur le Trône qui Lui appartient, ainsi que pour Lui assurer la possession de Son Royaume.

La nouvelle de l'Usurpation consommée à Lisbonne le 1<sup>er</sup> Juillet de cette année, ayant excité dans l'âme de Sa Majesté L'Empereur Dom Pedro, une juste indignation, ainsi que la plus vive douleur, il est aisé de concevoir qu'aux sentiments qu'éprouve Sa Majesté Impériale, s'unit encore l'inquiétude paternelle que doit Lui causer le sort d'une Fille chérie, dont Il n'a pu Se séparer qu'à regret, pour Se conformer aux instances réitérées des Souverains, Ses Alliés, et dans la ferme conviction qu'Elle conserverait la possession de la Couronne qui Lui était garantie, non moins par Ses droits légitimes, que par les arrangements solennels, aux quels ont pris part les Cours d'Angleterre et d'Autriche, et par les Serments du Prince auquel Il avait conféré la Régence du Portugal, et destiné la main de Sa Fille.

Cruellement déçu dans cet espoir, Sa Majesté Impériale ne sauroit douter en tout cas, que ces mêmes Puissances ne partagent Sa juste indignation, et Il a reçu avec reconnaissance la première preuve qu'Elles en ont donnée en retirant Leurs Ministres de Lisbonne. Il l'a reçue comme un gage assuré que l'ancien et intime Allié du Portugal ne Se bornerait pas à témoigner, par cet acte, en commun avec toutes les autres Cours de l'Europe, Sa désapprobation de la révolte perfide opérée en Portugal; mais que Sa puissante co-opération serait employée plus effectivement en faveur de La Reine, lorsque la demande Lui en serait formellement adressée par Le Chef de la Maison Royale de Bragança; et cet espoir est heureusement conforme aux paroles qui ont été prononcées du haut du Trône à la Clôture de la dernière Session du Parlement Britannique.

Décidé à ne jamais transiger avec le Ravisseur de la Couronne de Portugal, et à révéndiquer les droits de Sa Majesté La Reine Dona Maria 2<sup>e</sup>; la première pensée de Sa Majesté L'Empereur du Brésil, a dû être celle de réclamer à cet effet, les secours de Sa Majesté Britannique, en vertu des Traités existants entre le Portugal et la Grande Bretagne.

Ces Traités, Son Excellence Lord Aberdeen ne l'ignore pas, datent des premiers tems de la Monarchie Portugaise. Dès le Règne d'Edouard 1<sup>er</sup> d'Angleterre, des Stipulations d'amitié et de commerce, furent contractées entre les deux Couronnes; et dans l'année 1373 un Traité formel d'Alliance fut conclu entre Ferdinand 1<sup>er</sup> de Portugal et Edouard 3<sup>e</sup> d'Angleterre. Telle est l'ancienne alliance qui subsiste encore, on peut l'affirmer, en pleine vigueur et intacte, moyennant la série des Traités qui se sont succédés les uns aux

autres, et qui pour la plupart commencent par énoncer la confirmation de tous les Traités précédents.

Cette série se termine par le Traité du 21 Janvier 1815, dont l'Article 3<sup>me</sup> est ainsi conçu :—“ Les anciens Traités d'Alliance, d'Amitié et de Garantie, qui ont si longtemps et si heureusement subsisté entre les deux Couronnes, sont par le présent Article renouvelés par les deux Hautes Parties Contractantes, et reconnus être en pleine force et vigueur.”

Durant cette longue période, aucune guerre n'a interrompu entre les deux Gouvernements une liaison dont l'histoire diplomatique ne présente pas un second exemple ; et le seul intervalle de rupture, qui ait existé, a eu lieu du temps du Protecteur Cromwell, occasionnée (ce qui est digne de remarque) par le secours que le Roi de Portugal avait prêté aux partisans du Roi Charles 1<sup>er</sup>. auxquels on avait accordé un asile à Lisbonne.

Le Soussigné, après avoir établi l'existence et la validité de toute cette série de Traités, dépasseroit les bornes qu'il doit se prescrire dans cette Note, s'il se livrait à l'examen détaillé de chacun d'eux. Il se bornera donc à présenter l'Extrait de quelques unes des Stipulations, qui peuvent en démontrer l'esprit et la tendance ; car ce n'est pas seulement dans la lettre des Traités, mais dans leur ensemble et dans les rapports intimes qu'ils ont créés et maintenus entre les deux Pays, et les deux Couronnes, qu'on doit en chercher le véritable sens.

Par l'Article 1<sup>er</sup> du Traité de 1373 (dont le Soussigné joint la Copie sous N<sup>o</sup> 1) il paraît qu'on a eu l'intention d'appliquer les Stipulations de l'Alliance aux cas de Rebellion, et cette supposition est confirmée par l'Acte postérieur (N<sup>o</sup> 2) par lequel le Roi d'Angleterre permet la levée dans Ses Etats d'un Corps de Volontaires pour servir dans la guerre que Le Roi de Portugal soutenait alors contre Son Frère révolté, le transport de ce Corps ayant été fait par deux Vaisseaux de ligne que le Gouvernement Britannique a fourni à cet effet.

Le Traité d'Alliance de 1571 entre La Reine Elisabeth et Le Roi Sebastien (N<sup>o</sup> 3) fait expresse mention du cas de Rebellion, et indique au moins que les deux Souverains prennent un intérêt mutuel au maintien de Leurs Gouvernements respectifs.

Dans l'Acte de ratification du Traité de 1642 (N<sup>o</sup> 4) on remarque l'intention expresse de renouveler tous les Traités précédents.

L'Article 1<sup>er</sup> du Traité de 1654 (N<sup>o</sup> 5) contient la Stipulation, de ne pas recevoir ni accueillir réciproquement les Sujets rebelles de chacun des deux Pays ; et par cet Article, Sa Majesté La Reine Dona Maria 2<sup>a</sup>, a le droit d'exiger, sans doute, que Son Auguste Allié ne tolère pas la résidence en Angleterre d'un Agent avoué du Gouvernement Usurpateur de Portugal.

L'Article 17<sup>me</sup> du Traité de 1661 (N<sup>o</sup> 6) mérite d'être lu avec attention. On y trouve la faculté reconnue, en vertu des Traités précédents, de faire des levées de troupes en Angleterre. Ce Traité contient les expressions les plus fortes et les plus positives, qui se trouvent dans aucun Acte de cette espèce, le Roi d'Angleterre allant jusqu'à déclarer qu'il prendra les intérêts du Portugal à cœur autant que ceux de Ses propres Etats.

L'Article 1<sup>er</sup> du Traité d'Alliance de 1703, (N<sup>o</sup> 7) confirme explicitement tous les Traités précédents.

L'Article 6<sup>me</sup> de la Convention signée à Londres le 22 Octobre, 1807, (N<sup>o</sup> 8) s'exprime comme il suit : “ Sa Majesté Britannique S'engage en Son Nom et en celui de Ses Successeurs, à ne jamais reconnaître pour Roi de Portugal aucun Prince qui ne soit l'Héritier et le Représentant Légitime de La Famille Royale de Bragança.”

Cette Stipulation est évidemment applicable au cas actuel ; car l'Héritier et Représentant Légitime reconnu comme tel par Sa Majesté Britannique, est actuellement dépossédé de Sa Couronne, par un Prince de la même Famille, il est vrai, mais qui n'en est pas moins un Usurpateur.

On ne sauroit alléguer non plus que la Convention précitée n'ait été que temporaire, car cette clause n'y est nulle part énoncée, et se trouve formellement contredite par la confirmation générale de tous les Traités précédents d'Alliance et Garantie, contenue dans l'Article 3<sup>me</sup> du Traité conclu à Vienne le 21 Janvier, 1815.

Le Soussigné croit devoir s'arrêter aux citations qu'il vient de faire, et qu'il pourroit multiplier encore ; mais il se flatte d'avoir suffisamment démontré :—1°. que tous les Traités d'Alliance et de Garantie contractés entre le Portugal et la Grande Bretagne, subsistent en pleine vigueur :—2°. que la nature de ces Traités, leur nombre, la liaison qu'ils ont établie entre les deux Couronnes depuis tant de siècles, leur donnent un caractère particulier, qui les distingue des Traités ordinaires, et qu'il faut les interpréter dans leur ensemble, plutôt que par l'analyse de chacun d'eux :—3°. qu'il y est en plusieurs occasions fait expresse mention des cas de Révolte, ou de Rebellion, soit pour stipuler la prestation des secours, soit pour permettre la levée des Troupes, soit pour exclure les Rebelles réciproquement des deux Etats :—4°. et finalement, que cette Alliance, au moment même où elle fut contractée, a été appliquée au cas de la Révolte de L'Infant Dom Henri contre son Frère, Le Roi Dom Ferdinand, qui est le même cas qui se présente maintenant entre Sa Majesté Le Roi Dom Pedro 4°. et Son Frère L'Infant Dom Miguel. L'application donc des anciens Traités d'Alliance au cas actuel a toute la force d'une *chose jugée*.

Outre ces Traités valides et obligatoires, le Soussigné citera encore d'autres Actes également valides et diplomatiques, quoiqu'ils ne soient revêtus des formes et du titre de Traités.

Son Excellence, Monsieur le Comte d'Aberdeen, concevra que le Soussigné veut parler des Protocoles des Conférences, tenues à Vienne et à Londres, en Octobre 1827, Janvier et Février 1828, Conférences auxquelles ont pris une part principale les Plénipotentiaires de Sa Majesté Britannique, et de Sa Majesté Impériale et Royale Apostolique, et qui constituent ces Souverains en droit d'exiger l'exécution de tous les engagements qui y ont été pris. Ces engagements ne lient pas seulement L'Empereur Dom Pedro, et Son Altesse Royale L'Infant Dom Miguel. Les Cours d'Angleterre et d'Autriche n'ont pas exercé en cette occasion le rôle de simples témoins ; et le Soussigné pense que les citations suivantes, Extraites du Protocole de la 2<sup>me</sup>. Conférence de Vienne, et de celle du 12 Janvier, de Londres, prouveront évidemment la vérité de cette assertion. Il a été dit dans la 2<sup>me</sup>. Conférence de Vienne, "que  
 " les deux Puissances (l'Angleterre et l'Autriche) étaient pénétrées de l'importance de ne pas laisser plus longtemps indécises des questions d'un si haut intérêt (la confirmation de l'Acte d'Abdication de Sa Majesté L'Empereur Dom Pedro ; l'envoi de La jeune Reine en Europe ; et la séparation totale et définitive des deux Couronnes,) et que ces deux Puissances étaient déterminées à réunir leurs soins et leurs efforts pour en presser, et en obtenir la décision à Rio de Janeiro."

Dans la Conférence de Londres les Plénipotentiaires de la Grande Brétagne et d'Autriche s'expliquent dans les termes suivants : " Lord Dudley, le Prince d'Esterhazy, et le Comte de Bombelles, se trouvent dans le cas d'énoncer de nouveau, conformément à ce qui a déjà été consigné dans les Conférences de Vienne, les vœux de leurs Gouvernements respectifs, pour que l'Abdication de la Couronne de Portugal par Sa Majesté Dom Pedro 4°. soit complétée, aussitôt que possible, et sans restriction ; l'Abdication complétée et la séparation confirmée, les deux Cours s'engagent à prêter leurs bons offices, afin que les Gouvernements de Portugal et du Brésil se mettent d'accord pour communiquer cet arrangement à toutes les Puissances, et en obtenir la reconnaissance. Les deux Cours s'engagent également à prêter leurs bons offices pour régler définitivement, par un Traité, l'ordre de succession dans les deux branches de la Maison de Bragança, laquelle transaction conclue, sera portée à la connaissance des Puissances Etrangères, pour être reconnue par Elles."

Certes il seroit difficile, après avoir lû ces deux Protocoles, de soutenir que l'Angleterre et l'Autriche n'ont assisté aux Conférences de Vienne et de Londres, par le moyen de leurs Plénipotentiaires, qu'en qualité simplement de témoins.

Si tel étoit le cas, comment ces deux Cours se seroient elles crûes appelées, non seulement à énoncer leurs vœux dans les susdites Conférences, mais à prendre l'engagement positif, de réunir leurs soins et leurs efforts pour obtenir à Rio de Janeiro la décision, conforme à leurs vœux, de plusieurs questions du plus haut intérêt pour les destinées futures de Portugal et du Brésil ? N'est-il pas évi-

dent, que si (contre toute probabilité) Sa Majesté l'Empereur du Brésil avait voulu retracter Ses promesses, les deux Cours se seroient trouvées autorisées, d'après la teneur des Protocoles, à en réclamer l'exécution? Et n'est il pas encore à plus forte raison indubitable, que ce droit qu'Elles auraient exercé à l'égard de Sa Majesté Impériale, Elles se trouvent autorisées à le faire valoir plus hautement vis-à-vis d'un Prince, dont Elles ont à cette occasion, pour ainsi dire, référé les serments?

On doit donc, le Soussigné se permettra de le répéter, attribuer aux Protocoles susdits toute la valeur d'un Traité formel, puisqu'ils contiennent des promesses réciproques, des Engagements, auxquels ont pris part les Plénipotentiaires de Portugal, nommés par le Régent, *au nom du Roi*, et les Plénipotentiaires de la Grande Bretagne et de l'Autriche.

Enfin Son Excellence, Monsieur le Comte d'Aberdeen, sait que le titre de Traité ou de Convention n'est pas nécessaire pour constituer la validité des Engagements politiques, et que le Memorandum signé d'une Conférence, ou un échange de Notes, ont souvent rempli le même but.

Sa Majesté Britannique, le Soussigné osera en appeler à Elle même, pourra-t-Elle jamais oublier les assurances écrites qu'Elle a reçus, et les paroles qu'Elle même a entendu prononcer à l'Infant Dom Miguel? Oubliera-t-Elle que c'est après avoir reçu l'accueil le plus magnifique et le plus amical en Angleterre, et avoir été accompagné jusqu'au Tage par une Escadre Britannique, que ce Prince a immédiatement violé tous les serments sous l'égide, on peut le dire, des Troupes Britanniques, dont la présence à Lisbonne produisait (quoique sans intention) l'effet de comprimer toute tentative de résistance aux Mesures, par lesquelles, sous le masque légal de la Régence, l'Infant se préparait à accomplir l'Usurpation?

D'un autre côté, Sa Majesté Britannique, oubliera-t-Elle la générosité, la bonne foi et entière confiance, avec lesquelles Sa Majesté l'Empereur du Brésil a adhéré à tous les vœux et à tous les conseils de Son Auguste Allié, en complétant Son abdication de la Couronne de Portugal, et en envoyant la jeune Reine en Europe?

Et sera-t-il possible que l'Auguste Monarque qui a vivement conseillé l'une et l'autre de ces Mesures, tolère patiemment l'Usurpation, et Se refuse de prêter à La Reine, Son Alliée, les secours, que le Soussigné, au Nom de cette Souveraine, et appuyé de Sa présence, réclame en Sa faveur? On ne saurait pas le supposer.

Le Soussigné terminera donc en réclamant, au Nom de Son Auguste Maître, et en faveur de La Reine Dona Maria II., les secours que les circonstances exigent, et que Sa Majesté Très Fidèle, est en droit d'attendre de la part de Sa Majesté Britannique, en vertu de l'étroite Alliance qui existe entre les deux Couronnes, et des Engagements qui résultent des Conférences formelles tenues à Vienne et à Londres. Le Soussigné ne peut douter de la résolution que les sentiments de justice et d'honneur dictéront au Cabinet de Sa Majesté Britannique, surtout, lorsqu'il se rappelle les conseils et les promesses que lui même a été chargé de porter à l'Empereur, son Maître, de la part du Personnage éminent qui préside aujourd'hui, et déjà présidoit au mois de Mars dernier, aux Conseils de Sa Majesté Britannique; et il ajoutera seulement que dans le cas où les Stipulations du Traité de 1661, ne soient pas jugées suffisantes pour les circonstances actuelles, il se trouve muni des Instructions et des Pleins Pouvoirs nécessaires pour conclure une Convention, dans laquelle les secours à fournir par Sa Majesté l'Empereur du Brésil, et par Sa Majesté Britannique, à Sa Majesté La Reine Très Fidèle, pourront être formellement spécifiés.

Le Soussigné profite de cette occasion &c.

LE MARQUIS DE BARBACENA.

Son Excellence Le Comte d'Aberdeen,

&c. &c. &c.

(Translation.)

*The Marquis de Barbacena to the Earl of Aberdeen.**London, 25th November, 1828.*

THE Undersigned, Plenipotentiary of His Majesty the Emperor of Brazil, discharges the sacred duty imposed upon him by his August Master, by addressing to his Excellency, the Earl of Aberdeen, His Britannic Majesty's Principal Secretary of State for Foreign Affairs, the official demand of His Britannic Majesty's support in favour of Her Majesty the Queen of Portugal, and the claim of effectual assistance in placing Her Most Faithful Majesty upon the Throne belonging to Her, as well as in securing to Her the possession of Her Kingdom.

The intelligence of the Usurpation effected at Lisbon on the 1st of July of this year, having excited in the mind of His Majesty, the Emperor Dom Pedro, a just indignation and the most lively pain, it may be easily conceived that these feelings of His Imperial Majesty are heightened by the paternal uneasiness necessarily occasioned by the lot of a beloved Daughter, from whom He could not separate but with regret, to comply with the repeated instances of the Sovereigns, his Allies, and in the full conviction that she would keep possession of the Crown guaranteed to Her, no less by Her legitimate rights, than by the solemn arrangements to which the Courts of England and Austria were Parties, and by the Oaths of the Prince, upon whom He had conferred the Regency of Portugal, and for whom He had destined the hand of His Daughter.

His Imperial Majesty, though cruelly disappointed in this hope, can entertain no doubt of the same Powers sharing His just indignation; and He has gratefully received the first proof which they afforded of it, by withdrawing their Ministers from Lisbon. He has looked upon it as a sure pledge, that the ancient and intimate Ally of Portugal would not be satisfied with testifying by that act, in common with all the other Courts of Europe, His disapprobation of the perfidious Insurrection excited in Portugal, but that His powerful co-operation would be still more effectually displayed in favour of the Queen, when formally called upon for that purpose by the Head of the House of Braganza; and this hope happily accords with the words spoken from the Throne at the closing of the last Session of the British Parliament. Determined never to come to any terms with the Usurper of the Portuguese Crown, and to assert the rights of Her Majesty, the Queen Donna Maria II., the first thought of His Majesty, the Emperor of Brazil, could be no other than that of claiming for this purpose, the aid of His Britannic Majesty, in virtue of the Treaties subsisting between Portugal and Great Britain.

These Treaties, as his Excellency Lord Aberdeen is aware, commence with the earliest periods of the Portuguese Monarchy. In the reign of Edward I. of England, Stipulations of Friendship and Commerce were entered into between the two Crowns; and in 1373 a formal Treaty of Alliance was concluded between Ferdinand I. of Portugal, and Edward III. of England. Such is the ancient alliance still subsisting, it may be affirmed, in full vigour and intact, by means of the series of Treaties which have succeeded each other, and which, most of them, set out with confirming all the former Treaties.

This series ends with the Treaty of the 21st January, 1815, the third Article of which runs thus:—"The ancient Treaties of Alliance, Amity, and Guarantee, which have so long and so happily subsisted between the two Crowns, are by this present Article renewed by the two High Contracting Parties, and acknowledged to be in full force and vigour."

No War has, during this long period, interrupted between the two Governments a connection, of which diplomatic history exhibits no similar instance; and the only rupture which has occurred took place during Cromwell's Protectorate, occasioned, it is worthy of remark, by the assistance given by the King of Portugal to the Partisans of King Charles I. to whom he had granted an asylum at Lisbon.



The Undersigned, after proving the existence and the validity of the whole of this series of Treaties, would exceed the limits which he must prescribe to himself in this Note, if he were to enter into a minute examination of each of them. He will therefore only extract some of the Stipulations, by which their spirit and tendency may be demonstrated, as the true import of them is not to be sought only in the letter of the Treaties, but in their aggregate, and in the intimate relations which they have created and kept up between the two Countries and the two Crowns.

By Article I of the Treaty of 1373, of which the Undersigned encloses a Copy, No. 1. it seems to have been intended to apply the Stipulations of the Alliance to the case of Rebellion, and this supposition is confirmed by the subsequent Act, No. 2, by which the King of England *permits the raising in his Dominions of a body of Volunteers*, to serve in the war which the King of Portugal was at that period carrying on against his rebellious Brother, the conveyance of that body having been effected by means of two Ships of the Line which the British Government provided for that purpose.

The Treaty of Alliance of 1571, between Queen Elizabeth and King Sebastian, No. 3, makes express mention of Rebellion; at least it states that the Two Sovereigns take a mutual interest in maintaining their respective Governments.

In the Act of Ratification of the Treaty of 1642, No. 4, the express intention of renewing the preceding Treaties is observable.

The 1st Article of the Treaty of 1654, No. 5, contains the Stipulation of neither receiving nor harbouring, reciprocally, the rebellious Subjects of either of the two Countries; and in virtue of this Article, Her Majesty, Queen Dona Maria II., has, undoubtedly, the right to demand, that her August Ally should not suffer an avowed Agent of the Usurper's Government of Portugal to reside in England.

The 17th Article of the Treaty of 1661, No. 6, deserves to be read with attention, since in it is recognised, under preceding Treaties, the power of levying Troops in England. That Treaty contains the strongest and the most positive expressions to be found in any Act of this kind, as the King of England goes the length of declaring, that he will watch over the interests of Portugal with as much care as over those of his own Dominions.

The 1st Article of the Treaty of Alliance of 1703, No. 7, explicitly confirms all the preceding Treaties.

In Article 6 of the Convention, signed at London, the 22nd October, 1807, No. 8, occur the following expressions: "His Britannic Majesty engages in His name, and in that of his Successors, *never to acknowledge, as King of Portugal*, any Prince other than the Heir and the legitimate Representative of the Royal Family of Braganza."

This Stipulation evidently applies to the present case; for the Heir and legitimate Representative, whom His Britannic Majesty has recognised as such, is at the present moment dispossessed of Her Crown, by a Prince of the same Family, indeed, but who is not the less an Usurper.

Neither can it be alleged that the Convention, just mentioned, was only temporary; for not only is this condition nowhere stated, but it is formally contradicted by the general confirmation of all the preceding Treaties of Alliance and Guarantee, contained in Article 3 of the Treaty concluded at Vienna, the 21st January, 1815.

The Undersigned deems it his duty to dwell upon the quotations just made, and to which he might add many more; but he flatters himself to have sufficiently demonstrated;—1st. That all the Treaties of Alliance and Guarantee, concluded between Portugal and Great Britain, are still subsisting in full vigour;—2dly. That the nature of these Treaties, their number, and the connection which they have established between the two Crowns for so many Ages, give them a peculiar character, which distinguishes them from ordinary Treaties, and that it is necessary to interpret them as a whole, rather than to analyse them separately;—3rdly. That in several instances, express mention is therein made of cases of Revolt, or of Rebellion, either with the view

to stipulate the affording of assistance, or for the purpose of permitting the levy of Troops, or in order reciprocally to exclude Rebels from the two States; —4thly. And, finally, that this Alliance at the moment when it was entered into, was applied to the case of the Revolt of the Infant Dom Henry against his Brother, The King Dom Ferdinand, which is a similar case to that which now presents itself between His Majesty The King Dom Pedro IV., and his Brother, the Infant Dom Miguel. The application therefore of the ancient Treaties of Alliance to the case under consideration, has all the force of a *Precedent*.

In addition to these Treaties, alike valid and obligatory, the Undersigned has yet to adduce other Acts equally valid and diplomatic, although not possessing the form and denomination of Treaties.

His Excellency the Earl of Aberdeen will be aware that the Undersigned alludes to the Protocols of the Conferences held at Vienna, and at London, in October 1827, and in January and February 1828, to which Conferences the Plenipotentiaries of His Britannic Majesty, and of His Imperial and Royal Apostolic Majesty, became principal Parties, and which invest those Sovereigns with the right of insisting upon the execution of all the engagements there contracted. These engagements are not binding solely upon the Emperor Dom Pedro, and His Royal Highness the Infant Dom Miguel. The Courts of England and Austria did not on that occasion act the part of mere Witnesses, an assertion, the truth of which, it is imagined by the Undersigned, will evidently be proved by the following passages taken from the Protocol of the 2nd Conference of Vienna, and from that of the Conference of January 12th of London. It was stated in the 2nd Conference of Vienna, that the two Powers, “(England and Austria) were impressed with the importance of not “suffering any longer to be undecided, questions of so high an interest (the “confirmation of the Act of His Majesty the Emperor Dom Pedro’s Abdi- “cation; the sending of the young Queen to Europe; and the total and de- “finitive separation of the two Crowns) and that those two Powers *were de- “termined to unite their attention, and their efforts in pressing for, and ob- “taining the decision upon those points at Rio de Janeiro.*”

In the Conference of London, the Plenipotentiaries of Great Britain, and of Austria explain themselves thus: “Lord Dudley, Prince Esterhazy, and “Count de Bombelles, cannot, in accordance with what has already been set “forth in the Vienna Conferences, but again express the wishes of their re- “spective Governments for the Abdication of the Crown of Portugal, being, “as soon as possible, and without restriction, effected by His Majesty Dom “Pedro IV., and as soon as such Abdication shall have been completed, and “the separation confirmed, the two Courts engage to employ their good offices, “in order to induce the Governments of Portugal and Brazil, conjointly, to “announce this arrangement to all the Powers, and to procure their recogni- “tion of it. The two Courts bind themselves, likewise, to use their good offices “for definitively regulating, by means of a Treaty, the order of Succession in “the two branches of the House of Braganza, and that when this Transac- “tion shall have been concluded, it shall be brought to the knowledge of the “Foreign Powers, with the view of its being recognized by them.”

On reading these two Protocols, it would certainly be difficult to maintain that England and Austria were but as mere Witnesses, present at the Conferences of Vienna and London, through the medium of their Plenipotentiaries.

Had such been the case, how could those two Courts have imagined themselves called upon, not only to express their wishes in the above Conferences, but to contract the positive engagement of uniting their attention and their efforts for obtaining, at Rio de Janeiro, agreeably to those wishes, the decision of several questions of the highest interest to the future destinies of Portugal, and of Brazil? Is it not evident, that if (contrary to all probability) His Majesty the Emperor of Brazil had chosen to recall his promises, the two Courts would have found themselves authorized, according to the tenor of the Protocols, to demand the performance of them? And, on a stronger ground, is it not also incontestable, that they would find themselves authorized more forcibly to exert this right, which they had exercised in respect of His Imperial Majesty,

with regard to a Prince, whose oaths they, on that occasion, had in a manner put on record?

The Undersigned, therefore, takes leave to repeat, that the above Protocols ought to be considered exactly in the light of a formal Treaty, because they contain reciprocal promises, and engagements, to which the Plenipotentiaries of Portugal, appointed by the Regent, *in the King's name*, as well as the Plenipotentiaries of Great Britain and Austria, were Parties.

Finally, his Excellency the Earl of Aberdeen knows, that the name of Treaty or Convention is not requisite to constitute the validity of political engagements, and that the signed Memorandum of a Conference, or an exchange of Notes, have frequently answered the same purpose.

And can the British Monarch, if the Undersigned may presume to make such an appeal, ever forget the written assurances which His Majesty received, and the words which His Majesty himself heard the Infant Dom Miguel utter? Will the King of England forget, that that Prince, after having been received in England in the most distinguished and most friendly manner, and after having been accompanied as far as the Tagus by an English Squadron, did immediately violate every oath, while under the protection, it may be asserted, of the British Troops, whose presence at Lisbon, though without any such intention, produced the effect of repressing every attempt at resistance to Measures, by which, under the legal mask of the Regency, the Infant was preparing to accomplish the Usurpation?

Can His Britannic Majesty, on the other hand, forget the generosity, the good faith, and the implicit confidence with which His Majesty, the Emperor of Brazil, has complied with all the wishes, and conformed to all the counsels of His August Ally, by completing his Abdication of the Crown of Portugal, and by sending the young Queen to Europe?

And can it be possible that the August Monarch who so earnestly advised both those measures, should patiently bear the Usurpation, and refuse to lend the Queen, His Ally, that succour which the Undersigned, in the name of that Sovereign, and supported by her presence, claims in her favour? No one can suppose it.

To conclude, the Undersigned therefore claims, in the name of his August Master, and in favour of Queen Donna Maria II., such assistance as the circumstances call for, and as Her Most Faithful Majesty is justified in expecting, on the part of His Britannic Majesty, in virtue of the intimate Alliance subsisting between the two Crowns, and of the engagements resulting from the formal Conferences held at Vienna and London. The Undersigned cannot doubt of the resolution which the sentiments of justice and of honour will dictate to the Cabinet of His Britannic Majesty, the more particularly when he calls to mind the counsels and the promises which he was charged himself to convey to the Emperor, his Master, from the eminent Personage who now presides, and was already presiding in March last, over His Britannic Majesty's Councils; he has only to add, that in case the Stipulations of the Treaty of 1661 should not be judged sufficient for the present circumstances, he is provided with the necessary Instructions and Full Powers for concluding a Convention, in which the succours to be furnished by His Majesty, the Emperor of Brazil, and by His Britannic Majesty, to Her Majesty the Most Faithful Queen, may be formally specified.

The Undersigned avails himself of this opportunity, &c.

THE MARQUIS DE BARBACENA.

*His Excellency the Earl of Aberdeen,*  
 &c.      &c.      &c.

*Enclosure in No. 35.**Rélevé de quelques Articles des Traités d'Alliance entre le Portugal et la Grande Bretagne.*N<sup>o</sup>. 1.

Article 1<sup>er</sup> du Traité fait entre Ferdinand 1<sup>er</sup> et Edouard 3, en 1373; (Rymer, tom. 7, pag. 17,) "Ordinamus et concordamus quod inter prædictum Dominum nostrum Eduardum, &c. Dominum Ferdinandum, &c. Dominam Alianoram, conjugem suam, eorum Successores in Regnis prædictis Angliæ, et Portugalæ, Regna, Terras, Dominia, Provincias, Vassallos et Subditos quoscumque, fideliter obedientes, erunt hinc veraces, fideles, constantes, mutue et perpetue amicitie, adunationes, alligantie et pure delectionis Fœdera: et velut amici fideles et veraces, et mutuo hinc hinde amicis amici, et inimicis inimici, contra omnes homines qui possunt vivere vel mori, cujuscumque dignitatis, status, præeminentie, seu conditionis existant, eorum Terras, Regna et Dominia, invicem se juvabunt, manutenebunt et sustinebunt per terram et per mare, mutuo."

N<sup>o</sup>. 2.

Concessimus et licentiam damus, &c. &c. Qui in comitiva sua, versus partes Portugalæ ad impendendum servitium Regi Portugalæ, &c. &c. contra fratrem suum, qui rebellionem et guerram contra præfactum Regem facit, ut dicitur, transire voluerit.—*Rymer, tom. 8, pag. 41.*

N<sup>o</sup>. 3.

Le Traité d'Alliance de 1571 entre la Reine Elisabeth et le Roi Sebastien, porte ce qui suit:—"Ut perfecta esse amicitia et liberum utrinque commercium; neuter quicquam ni alterius præjudicium attentaret, nec hostibus, rebellibus aut proditoribus alterius, auxilium præstaret: merces, pecuniæ, naves sub arresto detentæ, restituerentur."

N<sup>o</sup>. 4.

Dans l'Acte de la Ratification Anglaise du Traité de 1642, entre Charles 1<sup>er</sup> et Jean 4, il est dit:—"Whereas the High and Mighty Prince John the Fourth, &c. &c. it was his desire to renew the ancient alliance and amity that were between the Kings, their Predecessors, their Crowns, and Subjects; His Majesty, &c. &c. has consented thereto, and makes known to all his well beloved people, &c. &c. &c."—*Chalmers, tom. 2, pag. 258.*

N<sup>o</sup>. 5.

L'Article 1<sup>er</sup> du Traité de 1654, entre l'Angleterre et le Portugal, porte:—"Nor receive or harbour the Rebels or Fugitives of either, in any of the other's Territories, Kingdoms, Dominions, Ports, or Borders."—*Chalmers, tom. 2, pag. 268.*

L'Article 14, du Traité de Commerce de 1810, porte:—"Il est convenu et arrêté que les individus coupables de haute trahison, de faux ou de tout autre crime abominable, dans les États d'une des deux Hautes Parties Contractantes ne pourront trouver refuge ni protection dans les États de l'autre."—*Martens, tom. 14, pag. 204.*

N<sup>o</sup>. 6.

L'Article 17<sup>me</sup> du Traité de 1661, entre Charles 2, et Alphonse 6, est ce qui suit:—"Besides the levies the King of Portugal hath liberty to make, by virtue of past Treaties, the King of Great Britain doth oblige himself by this present Treaty, that in case Lisbon, Porto, or any other sea town, shall be besieged or blocked up by the power of Castille, or any other Enemy, he will afford timely assistance of men and shipping according to the exigence of the circumstances,

and proportionable to the necessity of the King of Portugal."—*Chalmers, tom. 2, pag. 294.*

Dans l'Article 15<sup>m</sup> de ce même Traité il est dit :—" In consideration of all which Grants (Tangier and Bombay) \* \* \* \* \* The King of Great Britain doth profess and declare, with the consent and advice of his Council, that he will take the interest of Portugal and all its dominions to heart, defending the same with his utmost power by sea and land, even as England itself."

Nº. 7.

L'Article 1<sup>er</sup> du Traité d'Alliance Perpétuelle de 1703, entre la Reine Anne et Jean 5, porte :—" All former Treaties between the above said Powers are hereby approved, confirmed, and ratified, and are ordered to be exactly and faithfully observed, except in so far as by the present Treaty is otherwise provided and established."—*Chalmers, tom. 2, pag. 297.*

Nº. 8.

Article 6<sup>m</sup> de la Convention du 22 Octobre, 1807 :—" Le Siège de la Monarchie Portugaise étant établi au Brésil, Sa Majesté Britannique S'engage en son nom et en celui de ses Successeurs, à ne jamais reconnoître pour Roi de Portugal aucun Prince, qui ne soit l'Héritier et le Représentant légitime de la Famille Royale de Bragance.  
*Londres, ce 25 Novembre, 1828.* LE MARQUIS DE BARBACENA.

Translation.

*Extract of certain Articles from the Treaties of Alliance between Portugal and Great Britain.*

No. 1.

Article 1. of the Treaty, concluded between Ferdinand the 1st. and Edward the 3rd, in 1373. Rymer, Vol. 7, page 17. We ordain and agree, that, from henceforward there shall exist, between the aforesaid Edward our Lord, &c., the Lord Ferdinand, &c., the Lady Eleanor his consort, and their Successors, in the aforesaid Kingdoms of England and Portugal, and between their Kingdoms, Lands, Dominions, Provinces, Vassals, and loyal Subjects whatsoever, true, faithful, and constant relations of mutual and perpetual friendship, and leagues of alliance and pure affection; and they shall mutually assist, maintain, and sustain, each other, and their lands, kingdoms, and dominions, by land and sea, as faithful and true friends; and mutually henceforward, as friends with friends, and enemies with enemies, against all men who may live or die, of whatsoever dignity, station, rank, or condition, they may be.

No. 2.

We grant and give leave, &c. &c. to whosoever with his retinue may think proper to pass over to any part of Portugal to take service with the King of Portugal, &c. &c. against his Brother, who, as it is reported, carries on rebellion and war against the aforesaid King.—*Rymer, Vol. 8. page 41.*

No. 3.

The Treaty of Alliance of 1571, between Queen Elizabeth and King Sebastian, contains what follows :—" In order that the friendship may be perfect, and the commerce free on both sides, and that neither party may do pre-

judice to the other, or lend assistance to their enemies, rebels, or traitors, the merchandize, money and ships, now detained, shall be restored."

## No. 4.

In the Act of the English Ratification of the Treaty of 1642, between Charles the 1st and John the 4th, it is said : "Whereas the High and Mighty Prince, John the Fourth, &c. &c., it was his desire to renew the ancient Alliance and Amity that were between the Kings, their Predecessors, their Crowns and Subjects ; His Majesty, &c. &c. has consented thereto, and makes known to all his well-beloved people, &c. &c. &c."—*Chalmers*, vol. 2. page 258.

## No. 5.

The 1st Article of the Treaty of 1645, between England and Portugal, stands thus :—"Nor receive or harbour the Rebels or Fugitives of either, in any of the other's Territories, Kingdoms, Dominions, Ports, or Borders."—*Chalmers*, vol. 2, page 268.

The 14th Article of the Treaty of Commerce of 1810, stands thus :—"It is agreed and determined that the Individuals guilty of High Treason, of Forgery, or of any other heinous crime in the States of one of the Two High Contracting Parties, shall not be harboured, or find protection in the States of the other."—*Martens*, vol. 14, page 204.

## No. 6.

The 17th Article of the Treaty of 1661, between Charles II. and Alphonso VI. is as follows :—"Besides the levies, the King of Portugal hath liberty to make, by virtue of past Treaties, the King of Great Britain doth oblige himself by this present Treaty, that in case Lisbon, Porto, or any other sea town, shall be besieged or blocked up by the power of Castille, or any other enemy, he will afford timely assistance of men and shipping, according to the exigency of the circumstances, and proportioned to the necessity of the King of Portugal." *Chalmers*, vol. 2, page 294.

In the 15th Article of the same Treaty, it is said,—“In consideration of all which Grants (Tangier and Bombay) \* \* \* \* \* The King of Great Britain doth profess and declare, with the consent and advice of his Council, that he will take the interest of Portugal and all its dominions to heart, defending the same with his utmost power, by sea and land, even as England itself.”

## No. 7.

The 1st Article of the Treaty of perpetual Alliance of 1703, between Queen Ann and John V. stands thus :—"All former Treaties between the above said Powers are hereby approved, confirmed, and ratified, and are ordered to be exactly and faithfully observed, except in so far as by the present Treaty is otherwise provided and established."—*Chalmers*, vol. 2, page 297.

## No. 8.

Sixth Article of the Convention of 22nd October, 1807.—“The seat of the Portuguese Monarchy being established in Brazil, His Britannic Majesty engages, in his name, and in that of his Successors, never to acknowledge, as King of Portugal, any Prince other than the Heir and legitimate Representative of the Royal Family of Braganza.

London, 25th November, 1828.

LE MARQUIS DE BARBACENA.

*The Earl of Aberdeen to the Marquis de Barbacena.**Foreign Office, January 13, 1829.*

THE Undersigned, in replying to the Note which he had the honour of receiving from the Marquis de Barbacena, on the 30th of November. cannot help noticing the extraordinary circumstance, that, while the Ambassador of His Majesty, at the Court of Rio de Janeiro, is charged with a Special Commission, having for its object the reconciliation of the Emperor Don Pedro with his Brother the Infant Don Miguel, the Plenipotentiary of His Brazilian Majesty in this Country, should claim officially from His Majesty, effectual succours, in order to place Her Most Faithful Majesty Donna Maria II. upon the Throne of Portugal; and this, at the same time that Lord Strangford, and the Minister of His Imperial Majesty the Emperor of Austria, were receiving, from the mouth of the Emperor of Brazil, professions of his intention to defer to the counsels and judgment of His August Father-in-Law, and of the King of Great Britain, in the settlement of the unhappy differences subsisting in the House of Braganza.

Under these circumstances, the Undersigned would have felt himself compelled to wait until further Advices had enabled him to ascertain the real sentiments of the Court of Rio de Janeiro; but the demand of the Marquis de Barbacena being founded upon the alleged obligations of Treaties, it is more consistent with his sense of duty towards his Sovereign, to explain at once the real nature of these obligations, and, in doing so, to remove all doubt from the honour and good-faith of the King, his Master.

The Marquis de Barbacena has presented a summary of various Treaties contracted between the two Countries, commencing with that of earliest date, in the year 1373, and concluding with the Engagements entered into at the Congress of Vienna, in the year 1815. It would not be difficult to add to this list, and to prove that the obligations of Great Britain, throughout this long period, have been discharged by a continued succession of services rendered to the Kingdom of Portugal. It is not the purpose of the Undersigned to deny the validity of these antient Treaties of Alliance, Friendship, and Guarantee:—on the contrary, he is desirous of admitting the existence, in full force and vigour, of all such Treaties as have not been cancelled or varied by subsequent Diplomatick transactions. Neither does he object to the mode of construction adopted by the Marquis de Barbacena. He will admit that the Treaties may be explanatory of each other, and that their spirit may be gathered, rather from the tenour of the whole, than from the particular enactments of each. But the Marquis de Barbacena is aware that the specific object for which a Treaty may have been framed, ought not to be lost sight of in this consideration; nor will he deny that the continued practice of the Contracting Parties forms the safest commentary upon the nature of their Engagements; and that the true relation of the two Countries towards each other is best established by the Acts, during a long course of years, of their respective Governments.

But the Undersigned is prepared to maintain that the existing Treaties,—whether taken together,—according to the cumulative method of interpretation proposed by the Marquis de Barbacena,—or separately,—cannot furnish any real support to the claim which has been advanced.

It is assumed that the Usurpation of the Throne of Portugal by the Infant Don Miguel, has given to Her Most Faithful Majesty the right of demanding from this Country effectual succours, for the recovery of Her Crown and Kingdom. But it is not easy to see upon what foundation such a claim is supposed to rest. In the whole series of Treaties, there is no express Stipulation, which can warrant the pretension put forward in the Note of the Marquis de Barbacena. Neither is any such obligation implied by their general tenour and spirit.

It is then, either for the purpose of resisting successful Rebellion, or for that of deciding, by force, a question of doubtful Succession, that Great Britain has

now been called upon to act. But it is impossible to imagine that any Independent State could ever intend thus to commit the direction and control of its internal affairs to the hands of another Power; for, doubtless, if His Majesty be under the necessity of furnishing effectual succour in the event of any internal revolt or dissention in Portugal, it would become a duty, and indeed it would be essential, to take care that no such cause should exist, if it could possibly be prevented. Hence a constant and minute interference in the affairs of Portugal would be indispensable; for His Majesty could never consent to hold His Fleets and Armies at the disposal of a King of Portugal, without exercising those due precautions, and that superintendence, which should assure Him that His Forces would not be liable to be employed in averting the effects of mis-government, folly, or caprice. Is this a condition in which any State, professing to be independent, could endure to exist?—And yet, if it were possible to admit the validity of the Engagements contended for by the Marquis de Barbacena, such must necessarily be the relation in which Great Britain and Portugal would stand towards each other.

But the truth is, that the whole spirit of the Treaties, and their history, shew that the principle of the Guarantee given by England, is the protection of Portugal from Foreign Invasion.

When, upon the restoration of the Portuguese Monarchy in 1640, a Treaty was shortly after concluded between the two Crowns,—which forms the real basis of their actual Alliance,—the English Government could have entertained no other object than that of extending an efficient protection to King John IV., struggling to maintain his newly acquired Independence against the overwhelming power of Spain. Again, in 1661, when Charles the Second, in the Treaty upon which the Marquis de Barbacena appears greatly to rely, declares “that he will take the interest of Portugal, and all its Dominions to heart, defending the same with his utmost power by sea and land, even as England itself,”—it is clear that these Engagements have reference to protection against Foreign danger; and the manner in which this is to be afforded, is expressly stated to be, by giving timely assistance against the “power of Castile, or any other Enemy.”

In the course of the last Century, Great Britain has repeatedly answered the call for this protection; and, the Marquis de Barbacena need not be reminded, has done so with alacrity, and with effect. Never, until the unfortunate events of the year 1820, has she been called upon to interfere in the internal affairs of Portugal. This interference, although frequently demanded since that period, has been steadily refused by the British Government. It has been equally refused to all Parties, as for all purposes; and certainly these have been the most opposite and contradictory. Even in 1826, when His Majesty, in compliance with the requisition of the Ambassador of His Most Faithful Majesty, sent a body of his Troops to Portugal, the justification of that measure was expressly placed upon the ground that the Portuguese Refugees had acquired a foreign character, by having been embodied, armed, and equipped, in Spain: and the Commander of the British Troops was strictly enjoined to take no part whatever in the contest between the Factions in Portugal; but to oppose himself to the Foreign Invaders, and to such as he might find united under their banners.

In 1822, the King of Portugal regarded the Declaration of Independence by Brazil, and the assumption of the Sovereign Authority in that Country by his Son, the Emperor Don Pedro, as acts of successful Rebellion. The Portuguese Government frequently appealed to the Treaties with this Country, and to the obligations of a Guarantee, by which the integrity of Portugal and her Colonies was secured. But the British Government, while admitting in their full extent the obligations of the Guarantee, maintained that they only existed against dismemberment by a Foreign Power;—and that to the effects of internal dissension, they had no application. By the *Note Verbale* presented to the Portuguese Government by the British Chargé d’Affaires at Lisbon, in the month of December, 1822, His Majesty declared, that, in the Events which at that time divided the House of Braganza against itself, He was determined to observe



"the most exact and scrupulous neutrality." By a happy agreement with His Most Faithful Majesty, concluded under the mediation of Great Britain, the Independence of Brazil was finally acknowledged and secured; but this has been so far from weakening the effect of the Guarantee given by Great Britain for the preservation of Portugal, and her remaining Colonies, that His Majesty would feel himself bound to protect them equally against the unjust aggression of Brazil, as of any other Foreign Power.

It is not pretended by the Marquis de Barbacena, that the usurpation of the Infant Don Miguel has had any foreign origin, or has been encouraged by any Foreign State. On the contrary, every Sovereign in Europe has withdrawn his Minister, and suspended all Diplomatic intercourse with the Court of Lisbon. Whether the act be right or wrong, it was that of the Nation. If proof were wanting, it would be found in the conduct of those who, having raised the Standard of the Emperor Don Pedro, or of the Queen Donna Maria, at Oporto, having collected there the greatest part of the Army, together with a large body of men in arms, not belonging to the Military profession, superior in numbers, equipment, discipline, and means to their Opponents, still thought it necessary to abandon Oporto, and, many of them, to seek refuge in England, because, as they declared, they found the whole Country against them.

But if a case of successful Usurpation and Rebellion cannot justify the interference of Great Britain, still less can she be called upon to take part in the decision of a disputed Succession. It is attempted, however, to interpret the Guarantee established in the Treaties with Portugal, as imposing upon Great Britain the obligation of securing the Succession of the Queen Donna Maria, and of placing Her Most Faithful Majesty by force upon the Throne of Her Ancestors.

If Great Britain had yielded to the solicitation of the Ambassador of His Most Faithful Majesty, in December 1825, and had guaranteed the Succession of Portugal to the Emperor Don Pedro, in spite of his declared reluctance to accept it, confirmed by his subsequent Abdication, we should have contracted an Engagement utterly beyond our power to fulfil; and which, from its very nature, must have been known to be so, at the moment at which it was formed. The British Government, therefore, did wisely in declining to accede to the proposition of the Marquis de Palmella. It is true, that His Majesty, respecting the rights of primogeniture, and the order of nature, has acknowledged the Emperor Don Pedro as King of Portugal; and, upon His Abdication, has also recognized the Infanta Donna Maria as His Successor, and the lawful Sovereign of that Country. But His Majesty would contradict the principles which he has publicly professed, and upon which he has always acted, were he to employ force as the means of obtaining the acquiescence of an independent People in this recognition.

The only semblance of foundation for the assertion advanced by the Marquis de Barbacena, that this Country is bound, under the Treaties of Alliance and Guarantee, to co-operate by such means in placing Her Most Faithful Majesty upon the Throne of Portugal, is to be found in the Stipulation of the Sixth Article of the Secret Convention, concluded on the 22nd of October, 1807, by which Great Britain engages never to recognize as King of Portugal any other Prince than "the Heir and legitimate Representative of the Royal Family of Braganza."

It is to be recollected that this Convention was signed, in anticipation of the invasion of Portugal by a French Force, and of the determination of the Prince Regent to embark with his whole Family for Rio de Janeiro, rather than sacrifice his Alliance with England. It was known too to be the intention of Bonaparte to parcel out the Kingdom of Portugal in petty Sovereignities, among the most favoured of his Generals. This pledge, therefore, was the return made by the King of England for the devotion of His Ally to the Common Cause. It was an assurance which that Ally might naturally expect to receive, against the danger then imminent. Were this Convention still in force, His Majesty might be bound to acknowledge, as King of Portugal, the legitimate Heir only of the House of Braganza. But, obviously temporary in its character, it has ceased to exist with the necessity which gave it birth.

The Secret Convention of 1807 was engrafted into the Treaty of Friendship and Alliance, signed at Rio de Janeiro in 1810; and in this Treaty the Sixth Article of the Secret Convention, containing the express guarantee of Portugal to the House of Braganza was inserted, word for word: the Convention, therefore, merged in the Treaty of 1810. But in 1815, at the termination of the struggle in which both Countries had been so long and so gloriously engaged, when the Sceptre of Portugal was replaced unimpaired in the hands of "the Heir and legitimate Representative of the Royal Family of Braganza," the main object of these Treaties was accomplished. On the 22nd of January of that year, the two Powers entered into another Treaty at Vienna; by the Third Article of which, the Treaty of 1810, "being founded on circumstances of a temporary nature, which have happily ceased to exist, the said Treaty is hereby declared to be void in all its parts, and of no effect." That the provisions of the Convention of 1807 are included in this revocation, is confirmed by the latter part of the same Article, which declares that the revocation shall be without prejudice to "the ancient Treaties of Alliance; Friendship, and Guarantee, subsisting between the two Countries," which are renewed and acknowledged to be in full force and effect, while it is entirely silent upon the Convention of 1807; thus evidently shewing, that, in the opinion of both the Contracting Parties, the latter Convention partook of the same temporary character, which is ascribed to the Treaty of 1810; the Stipulations of which, in consequence of the changes rendered necessary by the course of events, had previously been substituted for those of 1807.

The Undersigned trusts, therefore, that the religious fidelity with which this Country is desirous of fulfilling all its Engagements, will not be exposed to imputation or doubt, if he finds himself compelled, in the name of the King His Master, to reject the appeal which has been made by the Marquis de Barbacena to the fancied Obligations imposed upon Great Britain by the Treaties existing between the Two Kingdoms.

In addition to the supposed obligation arising from former Engagements, the Marquis de Barbacena has adduced certain Diplomattick Acts, which his Excellency maintains are to be regarded as possessing the character and validity of Treaties, and, as such, giving to the Emperor Don Pedro an indisputable right to call for His Majesty's assistance, in conquering the Kingdom of Portugal for His Daughter. These Acts are the result of the Conferences at Vienna and in London, in the month of October, 1827, and in the month of January, 1828, before the departure of the Infant Don Miguel for Lisbon.—In these Conferences, the Marquis de Barbacena contends that both His Majesty and His Imperial Majesty the Emperor of Austria, virtually entered into some solemn Engagement, by which they bound themselves to exact the fulfilment of the promises then made by the Infant.

In proportion as this Country is scrupulous in the performance of its Engagements, care has been taken to render these Engagements definite and precise; it has, moreover, long been the practice to abstain from giving any Guarantee, the execution of which is not within our own power, but which may depend upon the good faith, or upon the inclination of others. The Undersigned, therefore, cannot think it necessary to occupy much time in the refutation of an assumption so gratuitous, and so entirely unsupported by the real state of the facts, as that which has been thus put forward by the Marquis de Barbacena. His Majesty's Ambassador at the Court of Vienna attended the Conferences, by the invitation of the Austrian Chancellor of State, and in consequence of the Letter addressed to His Majesty by the Emperor Don Pedro on the 3d of July, 1827, in which His Imperial Majesty declared, that He had appointed the Infant Don Miguel to be His Lieutenant, and Regent of the Kingdom of Portugal. Had His Majesty, indeed, overcome the reluctance of the Emperor Don Pedro, and prevailed upon His Imperial Majesty to confer upon his Brother the appointment of Regent; and had His Majesty given his Guarantee for the conduct of His Royal Highness, and for the performance of his promises; there might have been a claim upon His Majesty to see that the Engagements then contracted were carried into execution. But, in truth, the Ambassador of His Majesty entered into no Engagement of this description; neither did he take

part in any Negotiation leading to such a pledge ; and although the King had reason to complain of the Infant Don Miguel, for having failed to perform Engagements made in the presence of His Ambassador, this cause of complaint was founded upon the indignity thus offered to His Majesty himself, and not upon the injury done to the Emperor Don Pedro.

It is true, that in the Conferences of Vienna, and subsequently in London, His Majesty's Ambassador, and the Plenipotentiary of His Imperial Majesty the Emperor of Austria, did give an assurance that their respective Sovereigns would jointly exert their good offices to prevail upon the Emperor Don Pedro, to complete His Act of Abdication of the Throne of Portugal, as well as to send His Daughter to Europe, and by a Definitive Treaty to regulate the Order of Succession in the two branches of the House of Braganza. The Marquis de Barbacena complains that the Emperor, his Master, was urged to act in this manner ; and more than insinuates that he did so contrary to his own interests, and in compliance with the solicitations of England and Austria. But what is the fact ? Undoubtedly the King did advise His Imperial Majesty to complete the Act of Abdication of the Kingdom of Portugal, and thus to perform an obligation which His Imperial Majesty himself, as far back as the month of May, 1826, had solemnly contracted before the World. His Majesty further advised the Emperor to send His Daughter to Europe, in accordance with the declaration of His Imperial Majesty, made at the same period. These measures were well calculated to conciliate and to tranquillize the Portuguese Nation, by removing the just suspicions of the People, and convincing them that it was not intended to govern them as a Colony of Brazil. It is unfortunate that the measures thus advised, were not carried into execution previous to the arrival of the Infant at Lisbon. Had this been the case, much of what has since happened, and which is most to be deplored, would probably have been prevented. But the assurance given to Don Miguel, and entered upon the Protocol of the Conference, to offer to the Emperor Don Pedro this advice, does not render His Majesty the guarantee of the performance of those promises contained in the Letters of Don Miguel, which were laid before the Conference, and annexed to the Protocol. Neither does the advice tendered to the Emperor upon the propriety of the execution of these important Acts, respecting which His Imperial Majesty had long before spontaneously pledged His Royal Word, confer any right whatever of claiming from His Majesty those succours, which are necessary for the conquest of Portugal.

The tone of expostulation and complaint, which pervades the Note of the Marquis de Barbacena, and the impression which it is intended to convey, that the present state of Portugal is, in great measure, to be attributed to the deference paid by the Emperor Don Pedro to the counsels of his Allies, render it necessary to take a short review of some events connected with this subject ; to the end that Great Britain may be as effectually relieved from the moral responsibility, which it is attempted to impose upon Her, as from the weight of more formal obligations.

The late King, John VI. died on the 10th of March, 1826 ; — the intelligence of his death arrived in England on the 23d of March, and in Brazil on the 26th of April. The Emperor Don Pedro immediately assumed to himself the Government of Portugal, as King, in virtue of his right of succession as the eldest Son of his Father :—He published a general Amnesty, and framed the Constitution, in the Preamble to which the Three Orders of the State were called upon to swear fidelity to it forthwith ; and in which it was declared that the Kingdom of Portugal should thenceforward be governed according to the conditions laid down in that Instrument. The Emperor, at the same time, made over the succession of the Crown to his Daughter as Queen ;—appointed His Sister, Donna Isabella Maria, Regent of the Kingdom ; and, in order that no doubt whatever might remain of his intentions, His Imperial Majesty explicitly declared, in his Speech to the Legislative Assembly of Brazil, on the 6th of May, that “ He had abdicated and ceded all the indisputable and “ irrefragable rights which he had possessed to the Crown of the Portuguese “ Monarchy, to His Daughter the Princess Donna Maria da Gloria, Queen of

"Portugal." His Imperial Majesty despatched Sir Charles Stuart from Rio de Janeiro to Lisbon, as the Bearer of these Instruments, on the 11th of May;—thus concluding the whole of this important transaction in fourteen days. It is obvious, from the observation of these dates, that no Person possessing any Authority from His Majesty, with the exception of Sir Charles Stuart, could have interfered, even by advice, in the adoption of these measures; and it is not pretended that such advice was ever received from His Excellency. The avowed object of the measures of April and May, 1826, was to separate, finally, the Kingdoms of Portugal and Brazil; an event equally desired by both parts of the Monarchy. This object was accomplished by the promulgation of the Charter, as effectually and as solemnly as it could be by any Instrument executed by the Sovereign himself. In the Proclamation addressed to the Portuguese Nation, and dated the 2nd of May, 1826, His Imperial Majesty declared that His Abdication should become complete, as soon as the Constitution had been sworn to, and the Marriage concluded between the Infant Don Miguel and the Queen Donna Maria. The Constitution was sworn to, as His Imperial Majesty had directed, upon its reception in Portugal; and the alliance of Marriage was completed at Vienna, on the 29th of October, 1826.

The Undersigned may now be permitted to ask, whether the promises of the Abdication, and of the transmission of the Infant Queen to Portugal, were fulfilled. Did not His Imperial Majesty continue to interfere in all the measures of detail of the Portuguese Government?—Did he not create Peers?—promote Officers in the Army and Navy?—interfere in the selection and nomination of Ministers, and in all the interior arrangements of the Kingdom? The Portuguese Nation was disappointed in its hope and expectation of a final separation from Brazil; and the disappointment of this hope and expectation was still further confirmed by the detention of their young Queen at Rio de Janeiro. In the mean time, the dissatisfaction and discontent, produced by the Constitution transmitted from Brazil, were daily increasing; and, at last, broke out into acts of violence and of open rebellion. In this state of things, His Imperial Majesty, having first ordered his Brother, the Infant Don Miguel, to repair from Vienna to Rio de Janeiro, and having sent a Ship of the Line to Brest for the purpose of conveying him thither, suddenly countermanded these orders; and, unsolicited by His Majesty, appointed His Royal Highness to be his Lieutenant in Portugal and Regent of the Kingdom. This decision, the Undersigned is ready to admit, may have been justly demanded by the distracted condition of the Country; and, in point of fact, was subsequently recommended by His Majesty. But he must, at the same, beg to observe to the Marquis de Barbacena, that from what he has now had the honour to state, it clearly appears that the Abdication of the Crown—the composition and grant of the Constitutional Charter—the promise to send the Queen Donna Maria to Portugal,—the unfortunate delay in the execution of that promise,—as well as the little respect paid to the pledge virtually given by the Abdication, not to interfere from Brazil in the internal Government of Portugal;—and, finally, that the nomination of the Infant Don Miguel as Regent, were all acts spontaneously emanating from the Emperor Don Pedro himself, which did not originate with the King his Master; and for the effects of which His Majesty cannot be held responsible.

The Undersigned will not conclude without further expressing his regret that the counsels of Great Britain, when offered, should have been received with so little confidence and alacrity. These counsels have never been adopted by His Imperial Majesty until the course of events had rendered the choice of any alternative impracticable; nor until, from this reluctance and delay, they had, in a great measure, been deprived of their beneficial influence. In truth it may be affirmed, that so far from Great Britain having been instrumental in the production of the evils which have recently afflicted Portugal, they are mainly to be attributed to the want of a frank, consistent, and direct course of policy on the part of the Brazilian Government itself.

The Undersigned, &c.

(Signed)

ABERDEEN.

*The Marquis de Barbacena,  
&c. &c. &c.*

*Communications with the Marquis de Barbacena and the Marquis de Palmella, relative to certain Portuguese Troops landed in Great Britain from Portugal.—1828, 1829.*

No. 37.

*The Duke of Wellington to the Earl of Aberdeen.*

My Lord,

London, January, 1829.

I INCLOSE Copies of the Correspondence between the Marquis de Barbacena and me, and the Marquis de Palmella and me, regarding the arrival in this Country of the Queen Donna Maria da Gloria ; and regarding the Portuguese Troops at Plymouth, and their Expedition to Terceira.

I have the honour to be, &c.

*The Earl of Aberdeen.*

WELLINGTON.

&c. &c. &c.

*First Enclosure in No. 37.*

*The Marquis de Barbacena to the Duke of Wellington. (Confidentielle.)*

Monsieur le Duc,

Londres, ce 15 Octobre, 1828.

UNE affaire urgente m'avait fait prendre la résolution de me rendre aujourd'hui à Strathfieldsaye pour en parler de vive voix à Votre Grace, au lieu de le faire par écrit : mais ayant appris à Downing Street, qu'elle n'était pas dans sa Maison de Campagne, et craignant que votre absence se prolonge de quelques jours, je saisis le seul moyen qui me reste, vu que l'affaire en question ne peut souffrir le moindre retard.

Le Secrétaire du Gouvernement des Iles des Açores, vient d'arriver à Londres, chargé de réclamer avec la plus vive instance, l'envoi immédiat d'une partie des Troupes Portugaises fidèles, qui sont en Angleterre, et dont la présence dans les susdites Iles en assurerait la défense, ainsi que la tranquillité, sous la domination du Souverain Légitime, contre l'attaque dont elles sont menacées de la part du Gouvernement illégitime établi en Portugal.

Votre Grace sentira, sans doute qu'il est impossible aux Serviteurs de la Reine de se refuser à une si juste et si pressante demande, d'autant plus que le séjour prolongé, d'un nombre toujours croissant, de Réfugiés Portugais en Angleterre, comporte une dépense énorme et paroît avoir quelques inconvénients.

Décidé comme je suis à accorder les prompts secours que lui demandent les Sujets fidèles de la Reine, et persuadé que ces secours une fois débarqués à Terceira, seront suffisans pour mettre cette Ile à couvert de tout danger, je ne me dissimule pas les risques qui peuvent courir dans leur traversée les Navires de transport, s'ils ne sont pas protégés par quelques batimens de guerre.

Tel est, Monsieur le Duc, le puissant motif qui me porte à avoir recours à Votre Grace, afin de demander à Sa Majesté Britannique, au nom de la Reine, le convoi d'un Batiment de guerre pour escorter d'Angleterre, à une Possession qui reste soumise à l'Autorité Légitime de Sa Majesté Très Fidèle, une partie des Troupes Loyales, qui se trouvent à Plymouth ; ce secours ne devant pas débarquer à Terceira dans le cas malheureux où cette Isle auroit succombée à l'aggression dont elle est menacée.

D'après cet exposé, vous verrez, Monsieur le Duc, qu'il ne s'agit pas d'une entreprise hostile, mais simplement d'une mesure de défense, dictée par le sentiment de cette rigoureuse obligation qu'a tout Souverain de protéger ses Sujets.

J'ose donc espérer que le Gouvernement de Sa Majesté Britannique ne se refusera pas à donner à la Reine cette première marque d'amitié qu'Elle réclame de l'Allié et de l'Amie le plus fidèle de son Auguste Famille, et dans

cette juste attente, je vous prie, Monsieur le Duc, d'agréer, et les remerciemens que je vous en fais d'avance au nom de la Reine, et les assurances les plus formelles de la très-haute considération avec laquelle j'ai l'honneur d'être, &c.

(Signé) LE MARQUIS DE BARBACENA.

*Sa Grace Monsieur Le Maréchal, Duc de Wellington.*

&c. &c. &c.

(Translation.)

*The Marquis de Barbacena to the Duke of Wellington. (Confidential.)*

M. Le Duc,

London, October 15th, 1828.

A matter of urgent importance had made me resolve to repair this day to Strathfieldsay, in order to speak to your Grace respecting it, instead of making it the subject of a written Communication; but having learned, in Downing Street, that you were not at your house in the Country, and fearing lest your absence may be prolonged for some days, I take the only method which is left to me, seeing that the affair in question cannot admit of the least delay.

The Secretary to the Government of the Islands of the Azores has just arrived in London, authorized to demand, with the greatest urgency, the immediate dispatch of a part of the faithful Portuguese Troops, which are now in England, and whose presence in the above mentioned Islands would ensure their defence as well as their tranquillity, under the Government of the legitimate Sovereign, against the attack with which they are menaced by the illegitimate Government established in Portugal.

Your Grace will no doubt feel that it is impossible for the Servants of the Queen to refuse so just and pressing a demand, particularly as the prolonged residence of a continually increasing number of Portuguese Refugees in England, entails an enormous expense, and appears to be attended with some inconvenience.

Determined as I am to grant the succours which faithful Subjects of the Queen demand from her, and persuaded that these succours, when once landed at Terceira, will be sufficient to put that Island out of danger, I cannot conceal from myself the risks which the Transports may run during their voyage, if they be not protected by some Ships of War.

Such, M. le Duc, is the strong motive which makes me have recourse to your Grace, for the purpose of demanding from His Britannic Majesty, in the name of the Queen, the Convoy of a Ship of War, to escort from England to a Possession which remains subject to the legitimate authority of Her Most Faithful Majesty, a part of the Loyal Troops which are at Plymouth; the succours in question not to be landed at Terceira in the unfortunate event of that Island having fallen under the aggression with which it is threatened.

From what is above stated, you will see, Monsieur le Duc, that there is no question of a hostile undertaking, but simply of a measure of defence, dictated by the feeling of that strict obligation which is imposed upon every Sovereign to protect his Subjects.

I therefore venture to hope that the Government of His Britannic Majesty will not refuse to give the Queen this first mark of friendship which she requires from the Most Faithful Friend and Ally of her August Family; and and in this just expectation I request, Monsieur le Duc, that you will accept the thanks which I offer you before hand, in the name of the Queen, and the most formal assurances of the very high consideration with which I have the honour to be, &c.

(Signed) LE MARQUIS DE BARBACENA.

*His Grace Field Marshal the Duke of Wellington,*

&c. &c. &c.

*Second Enclosure in No. 37.**The Duke of Wellington to the Marquis de Barbacena.*

Monsieur Le Marquis,

Londres, ce 18 Octobre, 1828.

J'AI eu l'honneur de recevoir la Lettre de Votre Excellence du 15<sup>me</sup>.

Les Portugais qui se trouvent en Angleterre s'y trouvent en leur qualité d'Individus. Nous ne connoissons pas de Troupes Portugaises dans ce pays-ci. Si il y en a il faut qu'elles quittent le pays sans perte de temps.

Le Gouvernement a même beaucoup à se plaindre des Individus Portugais placés à Plymouth, qui, malgré qu'ils ayent été reçus dans ce pays-ci avec toute l'hospitalité qui étoit possible, se sont si fort oublié, il y a quelques jours, que de faire une attaque sur une maison où un Voyageur Portugais avoit pris asyle.

Je previens Votre Excellence aussi que le Gouvernement de Sa Majesté ne peut pas permettre qu'on fasse de l'Angleterre un Arsenal ou une Forteresse; d'où chacun puisse faire la guerre comme bon lui semblera. Si Messieurs les Portugais desirent faire la guerre aux Azores, au lieu de la faire en Portugal, comme ils en avoient la choix à leur disposition, qu'ils y aillent comme Individus, si ils le jugent à propos. Mais je vous dis franchement, Monsieur Le Marquis, qu'on ne-peut pas permettre aux Individus, de quelque caractère qu'ils soient, de préparer des expéditions belligérantes dans les Ports et Arsenaux de ce pays-ci pour faire des attaques chez les autres.

Encore moins pourroit en permettre qu'ils ayent convoi de la Marine de Sa Majesté Britannique pour pouvoir faire ces expéditions en sécurité.

J'ai l'honneur, &amp;c.

(Signed)

WELLINGTON,

DUQUE DE VICTORIA.

*The Marquis de Barbacena,*  
&c. &c. &c.

(Translation.)

*The Duke of Wellington to the Marquis de Barbacena.*

Monsieur le Marquis,

London, October 18, 1828.

I HAVE had the honour to receive Your Excellency's Letter of the 15th.

The Portuguese who are in England are here in the quality of Individuals. We know of no Portuguese Troops in this Country. If there be any they must quit the Country without loss of time.

The Government has, indeed, much reason to complain of the Portuguese individuals now at Plymouth, who, notwithstanding that they have been received in this Country, with all the hospitality which was possible, have so much forgotten themselves, within the last few days, as to make an attack upon a house where a Portuguese Traveller had taken refuge.

I also announce to your Excellency, that His Majesty's Government cannot permit that England should be made an Arsenal or a Fortress, from whence any one may make war, as he may think proper. If those Portuguese subjects desire to make war at the Azores, instead of doing so in Portugal, of which they have the choice, let them go there as Individuals if they please. But I must candidly tell you, Monsieur le Marquis, that it cannot be permitted that Individuals, of whatever character they may be, should prepare warlike expeditions in the Ports and Arsenals of this Country in order to make attacks upon others.

Still less can it be permitted, that they should be convoyed by the Navy of His Britannic Majesty, to enable them to make these expeditions in safety.

I have the honour, &amp;c.

(Signed)

WELLINGTON,

DUKE OF VICTORIA.

*The Marquis de Barbacena,*  
&c. &c. &c.

*Third Enclosure A. in No. 37.**The Duke of Wellington to the Marquis de Palmella.*

Monsieur le Marquis,

Londres, ce 20<sup>me</sup> Novembre, 1828.

COMME il ne convient pas au Gouvernement de Sa Majesté Britannique qu'une nombre considérable de Personnes qui ont été Officiers et Soldats au Service de Portugal restent à Plymouth, Lord Aberdeen a demandé hier à Son Excellence Monsieur le Vicomte de Itabayana qu'il en soit faite une distribution à la distance de Plymouth, ayant eu raison de croire que ces Personnes étoient payées par Son Excellence le Ministre Plénipotentiaire de l'Empereur Don Pedro à la Cour de Sa Majesté.

Son Excellence a répondu à Lord Aberdeen que ces hommes n'étoient pas payées par lui, mais que Son Excellence faisoit des avances à Monsieur le Marquis de Palmella, qui leur donnoit leur solde en forme de secours.

Je crois donc Monsieur le Marquis, devoir faire la demande de faire quitter Plymouth par tous les Portugais qui ont été Officiers ou Soldats de l'Armée Portugaise, ou qui ont servi avec l'Armée, comme par exemple Etudiants de Coimbra ou Volontaires d'Oporto.

Je dois vous annoncer le désir que les Officiers soyent séparés des Soldats, et qu'ils soyent à Exeter ou partout où ils voudront rendre comme Individus ; et que la Troupe soit placée dans un des Villes ou Villages nommés dans le papier ci-inclus, le nombre dans chaque Ville ou Village n'excédant pas ce qui y est indiqué.

J'ai l'honneur d'être

(Signé)

WELLINGTON,  
DUQUE DE VICTORIA.*The Marquis de Palmella.*

&amp;c. &amp;c. &amp;c.

(Translation.)

*The Duke of Wellington to the Marquis of Palmella.*

Monsieur le Marquis,

London, November 20th, 1828.

AS His Majesty's Government do not think it proper that a considerable number of Persons who have been Officers and Soldiers in the service of Portugal should remain at Plymouth, Lord Aberdeen requested yesterday of His Excellency the Vicomte d' Itabayana that a distribution should be made of them at a distance from Plymouth, having reason to believe that these Persons are paid by His Excellency the Minister Plenipotentiary of the Emperor Don Pedro at the Court of His Majesty.

His Excellency replied to Lord Aberdeen that these Men were not paid by him ; but that His Excellency made advances to the Marquis de Palmella who gave them their pay in the shape of assistance.

I consider it, therefore, to be my duty, Monsieur le Marquis, to demand that all the Portuguese who have been Officers or Soldiers of the Portuguese Army, or who have served in the Army, for example, as Students of Coimbra or Volunteers of Oporto, should be desired to quit Plymouth.

I also announce to you the wish that the Officers may be separated from the Soldiers, and that they may repair to Exeter, or to wherever they may desire to go as Individuals ; and that the Men may be placed in one of the Towns or Villages named in the inclosed Paper, the number in each Town or Village not exceeding that which is therein indicated.

I have the honour to be, &amp;c.

(Signed)

WELLINGTON,  
DUKE OF VICTORIA.*The Marquis de Palmella.*

&amp;c. &amp;c. &amp;c.



*Third Enclosure B. in No. 37.*

	Houses.	Population.	
Truro . . . . .	410 . . . . .	2,712 . . . . .	300
Bodmin . . . . .	523 . . . . .	3,278 . . . . .	400
Launceston . . . . .	245 . . . . .	2,183 . . . . .	200
Oakhampton . . . . .	308 . . . . .	1,907 . . . . .	100
Exeter . . . . .	3,256 . . . . .	23,479 . . . . .	Officers.
Brent . . . . .	116 . . . . .	764 . . . . .	50
Ashburton . . . . .	396 . . . . .	3,403 . . . . .	250
Chudleigh . . . . .	384 . . . . .	2,059 . . . . .	250
Tiverton . . . . .	1,313 . . . . .	8,651 . . . . .	300
Honiton . . . . .	681 . . . . .	3,296 . . . . .	400
Taunton . . . . .	1,503 . . . . .	8,534 . . . . .	500
Bridgewater . . . . .	1,059 . . . . .	6,155 . . . . .	500

*Fourth Enclosure in No. 37.*

*The Duke of Wellington to the Marquis de Palmella.*

M. le Marquis,

*London, November 27th, 1828.*

IN consequence of your informing me that the Portuguese Officers and Troops now at Plymouth, preferred to quit this Country, and proceed to Rio Janeiro, rather than remove from Plymouth to the neighbouring Towns and Villages, as I had desired in the conversation which I had with you on the 20th instant; and as you have expressed a wish that this Government should give these Portuguese a guarantee, for their safety from attack on their passage, or send a Vessel of war to convoy them, I have to inform you that His Majesty's Servants will give orders that a Convoy shall be prepared to escort the Vessels which will carry these Portuguese Troops, according to the wish expressed by you.

I have the honour to be, &c.

*The Marquis de Palmella.*

(Signed)

WELLINGTON.

&c. &c. &c.

*Fifth Enclosure in No. 37.*

*The Marquis de Palmella to the Duke of Wellington,*

Monsieur le Duc,

*Londres, ce 3 Décembre, 1828.*

J'AI reçu la Lettre que votre Excellence m'a fait l'honneur de m'écrire en date du 27 du mois passé, pour m'annoncer que le Gouvernement de Sa Majesté Britannique, prendrait les mesures nécessaires pour accorder, en conséquence du désir que j'avais exprimé, un Convoi à fin d'escorter les Batiments qui transporteront les Refugiés Portugais de Plymouth à Rio de Janeiro, et les garantir du danger d'être attaqués durant la traversée.

Après avoir mûrement réfléchi sur le contenu de la Lettre de votre Excellence, je crois devoir, Monsieur le Duc, vous prier de ne pas donner suite à l'intention que vous m'annoncez, et qui me paraît dans le cas actuel présenter plus d'inconvénients que d'avantages.

La demande que j'avais adressée à votre Excellence, n'avait pour bût que d'assurer aux Emigrés Portugais, qui sont venus libre et spontanément réclamer l'hospitalité dans ce Pays, la protection de Sa Majesté Britannique, dans le cas où ils auraient le malheur de rencontrer pendant le voyage de mer qu'ils se trouvent forcés d'entreprendre, quelque Batiment de Guerre appartenant au Gouvernement intrus du Portugal. Une simple assurance verbale de la part du Gouvernement Britannique, me semblerait suffisante pour les mettre à l'abri de tout danger dans le cas dont il s'agit, et je pense, Monsieur le Duc, que Sa Majesté Britannique pouvoit accorder l'espèce de garantie que j'ai sollicitée, d'après le même principe qui lui donne le droit incontestable d'exiger, que ces Emigrés Portugais ne partent pas d'Angleterre dans des Vaisseaux Armés, ni avec des projets d'aggression, contre aucun Pays qui ne se trouve pas en guerre avec l'Angleterre.

Cette assurance que l'on peut, justement, exiger de la part des Refugiés Portugais autorise, ce me semble, pleinement, à exiger en leur faveur, une

assurance semblable de la part de ceux qui peuvent les menacer d'un danger contre le quel ces individus sont privés des moyens de se défendre.

Votre Excellence voudra bien se rappeler que tel était le sens de ma demande, et que l'idée de fournir une escorte de la Marine Royale Britannique, ne fut pas suggérée par moi. Au premier moment, les objections aux quelles cette mesure est sujette ne se sont pas présentées assez clairement à mon esprit pour m'induire à en faire l'observation à votre Excellence, mais j'avoue que plus j'y pense, et plus il me semble qu'elle serait interprétée, ou comme un signe de défiance de la part du Gouvernement Britannique, ou comme une preuve de l'expulsion forcée des Portugais qui avaient cherché un asyle dans ce Pays.

Dans l'intérêt de Sa Majesté la Reine de Portugal, il est de mon devoir de chercher à éviter, autant qu'il dépendra de moi, que le départ des Portugais fidèles à leur légitime Souveraine, ne devienne l'occasion d'un triomphe pour leurs ennemis, que je regarde, en vertu des Traités subsistants entre les deux Couronnes, comme ne pouvant être considérés comme Amis du Gouvernement Britannique, est il n'est pas moins de mon devoir d'épargner à ceux qui ont tout sacrifié pour la plus juste des Causes, tout ce qui pouvait dans leur position actuelle blesser leurs idées.

Après avoir avoué sans détour à votre Excellence, quels sont les motifs qui m'engagent à ne pas accepter l'escorte que le Gouvernement de Sa Majesté Britannique veut bien offrir à mes Compatriotes réfugiés, et à vous prier d'agréer à cet égard leurs remerciements et les miens, je profiterai de cette occasion, Monsieur le Duc, pour ajouter encore quelques mots sur la communication, que votre Excellence m'a d'abord adressée verbalement, et ensuite par écrit dans la Lettre du 20 Novembre, et qui donne lieu au départ pour le Brésil, tous les Militaires Portugais qui se trouvaient réunis à Plymouth.

J'aurais déjà pris la liberté de représenter à votre Excellence par écrit, les conséquences funestes que peut avoir pour la Cause de Sa Majesté Très Fidèle, la résolution adoptée par le Gouvernement de Sa Majesté Britannique, et je l'aurais fait dans le but de chercher à en démontrer les inconvénients, si votre Excellence ne m'avait, dès le premier moment déclaré, qu'elle était inébranlable et qu'elle serait effectuée, *dans le cas même ou je me refuserais à y prendre part.* Cette résolution, qui consiste à distribuer dans un certain nombre de villes et d'endroits, designés par le Gouvernement Britannique, les Réfugiés Portugais qui jusqu'à présent se trouvaient tous réunis à Plymouth, et à séparer les Officiers des Soldats, repugne trop aux sentiments de tous ces Individus, pour qu'il eut été possible de les engager à s'y soumettre de bon gré, et ils auraient tous préféré une dispersion complète, et un dénuement absolu, à des secours prêtés d'une semblable manière. Dans de telles circonstances, il ne leur restait d'autre choix à faire que celui de quitter le Pays, vers le quel ils avaient été attirés par l'espoir d'un accueil conforme à l'intérêt que leur Cause y inspire, et en quittant l'Angleterre, le Brésil est le seul asyle où cette même Cause leur donne le droit d'être reçus.

Je ne me dissimule pas, Monsieur le Duc, qu'en abandonnant pour le moment l'Europe, les Emigrés Portugais délivrent le Parti de l'Usurpation d'une crainte qu'il avait toujours présente, et portent le désespoir dans l'ame de tout ce qu'il y a d'honorable et de fidèle en Portugal. Mais d'un autre côté, leur dissémination en Angleterre de la manière exigée par le Gouvernement Britannique, produirait un effet tout aussi défavorable et les intéressés eux-mêmes, lorsque je leur ai proposé cette alternative n'ont pas hésité sur le choix.

Veillez, Monsieur le Duc, excuser la longueur de cette Lettre. Votre Excellence sentira sans doute, que dans une affaire aussi grave il devenait indispensable pour moi de consigner, sous une forme permanente, les observations que je crois de mon devoir de faire, et j'ai cru en les réunissant dans une seule Lettre, en réponse aux deux que j'ai reçu de votre Excellence, mettre votre Excellence à même de les prendre plus facilement en considération.

J'ai l'honneur, &c.

(Signed) LE MARQUIS DE PALMELLA,

Sa Grace Le Duc de Wellington,

&c.      &c.      &c.

(Translation.)

*The Marquis de Palmella to the Duke of Wellington.*

Monsieur le Duc,

London, December 3, 1828.

I HAVE received the Letter which your Excellency did me the honour to write to me, dated the 27th ultimo, to announce to me that the Government of His Britannic Majesty would take the necessary measures to grant, in consequence of the desire which I had expressed, a Convoy, in order to escort the Vessels which will transport the Portuguese Refugees from Plymouth to Rio de Janeiro, and to guarantee them from the danger of being attacked during the passage.

After having maturely reflected upon the contents of your Excellency's letter, I think it my duty, M. le Duc, to beg of you not to give effect to the intention which you have announced to me, and which appears to me, under the existing circumstances, to present more inconvenience than advantage.

The demand which I addressed to your Excellency had only for its object to secure to the Portuguese Emigrants, who are come freely and of their own accord to claim hospitality in this Country, the protection of His Britannic Majesty, in case they should have the misfortune to meet, during the voyage which they are under the necessity of undertaking, any Vessel of War belonging to the usurping Government of Portugal. A simple verbal assurance on the part of the British Government seems to me sufficient to secure them from all danger in the case in question. And I think, M. le Duc, that His Britannic Majesty could grant the sort of guarantee which I have solicited, on the same principle which gives him the undeniable right to require, that these Portuguese Refugees do not set out from England in armed Vessels, nor with any plans of aggression against any Country not at war with England.

This assurance, which may be justly required from the Portuguese Refugees, fully requires, as it appears to me, that a similar assurance should be demanded in their favour, from those who may threaten them with danger, against which these Individuals are deprived of the means of defending themselves.

Your Excellency will recollect that such was the meaning of my demand, and that the idea of furnishing an escort of the British Navy was never suggested by me. At the first moment the objections to which this measure is liable, did not present themselves with sufficient clearness to my mind to induce me to point them out to your Excellency; but I own, that the more I think of it the more it seems to me that it would be interpreted, either as a mark of distrust on the part of the British Government, or as a proof of the forced expulsion of the Portuguese who had sought an asylum in this Country.

For the interest of Her Majesty the Queen of Portugal, it is my duty to endeavour to avoid, as much as depends on me, allowing the departure of the Portuguese, faithful to their legitimate Sovereign, to be made a triumph for their Enemies, whom I regard, in virtue of the Treaties subsisting between the two Crowns, as impossible to be considered as Friends of the British Government; and it is not less my duty to spare those who have sacrificed every thing for the most just of Causes, whatever might in their present situation wound their feelings.

After having candidly avowed to your Excellency the motives which induce me not to accept the escort which the Government of His Britannic Majesty is willing to offer to my emigrant Countrymen, and requesting you to accept on this subject their thanks and mine; I take this opportunity, M. le Duc, to add a few words upon the Communication which your Excellency addressed to me, at first verbally, and afterwards in writing, in the Letter of the 20th November, and which occasions the departure for Brazil of all the Portuguese Soldiers who are assembled at Plymouth.

I should have already taken the liberty to represent to your Excellency, in writing, the fatal consequences which the resolution adopted by the Government of His Britannic Majesty will produce to the Cause of His Most Faithful Majesty, and I should have done so with the intention of endeavouring to show

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the inconveniences of it, if your Excellency had not from the first moment declared to me, that it was unchangeable and that it would be carried into effect, *even in the event of my refusing to take part in it.* This resolution, which consists in distributing among a certain number of towns and places pointed out by the British Government, the Portuguese Refugees, who till now were assembled at Plymouth, and to separate the Officers from the Soldiers, is too repugnant to the feelings of all those Individuals, for it to have been possible to induce them to submit to it willingly, and they would all have preferred a total dispersion, and an absolute deprivation, to assistance afforded in such a manner. Under these circumstances, no choice remained to them but that of quitting the Country, towards which they had been drawn, by the hope of a reception conformable to the interest which their Cause inspires here, and in quitting England, Brazil is the only asylum where that same Cause gives them the right to be received.

I do not conceal from myself, M. le Duc, that in quitting Europe at this moment, the Portuguese Emigrants deliver the usurping Party, from a fear which was always present to it, and carry despair into the minds of all that are honourable and faithful in Portugal. But, on the other hand, their dispersion in England, in the manner required by the British Government, would produce an effect quite as unfavourable; and those persons themselves, when I proposed the alternative to them, did not hesitate as to their choice.

Pray, excuse, M. le Duc, the length of this Letter. Your Excellency will, no doubt, feel that in an affair so important, it became indispensable for me to record, in a permanent form, the observations which I think it my duty to make, and I conceive that in combining them in one Letter, in answer to the two which I have received from your Excellency, I shall enable your Excellency to take them more easily into consideration.

I have the honour to be, &c.

(Signed)

LE MARQUIS DE PALMELLA.

*His Grace the Duke of Wellington,*

&c. &c. &c.

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*Sixth Enclosure in No. 37.*

*The Duke of Wellington to the Marquis de Palmella.*

M. Le Marquis,

*Strathfield Saye, December 3d, 1828.*

I BEG you to be so kind as to let me know when the Vessels, having on board the Portuguese Troops, destined to be sent to the Brazils, will be ready to sail, in order that I may have directions given for the Officer commanding His Majesty's Ships at Plymouth, to send Convoy with them.

I have the honor to be, &c.

*The Marquis de Palmella.*

(Signed)

WELLINGTON.

&c. &c. &c.

DUQUE DE VICTORIA.

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*Seventh Enclosure in No. 37.*

*The Marquis de Palmella to the Duke of Wellington.*

Monsr. le Duc,

*Londres, ce 4 Decembre, 1828.*

APRES avoir écrit à Votre Excellence, j'ai reçu la Lettre en date de hier, dans laquelle elle me demande quand les Bâtiments qui doivent transporter les troupes Portugaises seront prêts à partir, à fin de pouvoir donner les ordres pour qu'ils soient convoyés.

J'ai déjà eu l'honneur d'exposer à Votre Excellence les raisons qui me portent à la remercier de l'offre du Convoi. Quand au départ des Réfugiés Portugais, je m'occupe des dispositions nécessaires pour qu'il ait lieu aussitôt que possible, et je l'ai déjà fait annoncer publiquement au Dépôt: je ne sçaurai cependant encore designer avec précision le jour où les premiers bâtimens pourront partir pour le Brésil.

J'ai l'honneur, &c.

(Signed)

LE MARQUIS DE PALMELLA.

*Sa Grace Le Duc de Wellington,*

&c. &c. &c.

(Translation.)

*The Marquis de Palmella to the Duke of Wellington.*

Monsieur le Duc,

London, 4th December, 1828.

AFTER having written to your Excellency, I received your Letter of yesterday, in which you ask me when the Vessels destined to convey the Portuguese Troops will be ready to depart, in order to give orders for their Convoy.

I have already had the honour to explain to your Excellency the reasons which lead me to thank you for the offer of Convoy. With regard to the departure of the Portuguese Refugees, I am now occupied in making the necessary arrangements, in order that it may take place as soon as possible, and I have already publicly announced it at the Dépôt; I cannot, however, as yet name the exact day when the first ships may be able to sail for Brazil.

I have the honour to be, &c.

(Signed)

LE MARQUIS DE PALMELLA.

His Grace the Duke of Wellington,

&amp;c. &amp;c. &amp;c.

*Eighth Enclosure in No. 37.**The Duke of Wellington to the Marquis de Palmella.*

M. le Marquis,

Goodwood, December 8th, 1828.

I HAVE had the honour of receiving your Letters of the 3d and 4th instant.

Some time ago one of the Brazilian Plenipotentiaries, now in England, wrote me a Letter, to desire that Convoy might be given to an Expedition intended to be sent from this Country against the Azores.

In answer, I declared my intention not to advise the King to give the requested Convoy; and moreover pointed out the impropriety of making this Country a camp, an arsenal, or a port of equipment, from which to carry on war.

The King is at peace with the whole World.

There is in existence a Commercial Treaty between this Country and Portugal; but His Majesty has no other relation with the Government, *de facto*, of Portugal, excepting those arising out of the transactions of his Subjects in Portugal, under the Stipulations of this Treaty. Even if this Treaty did not exist, the King could not permit War to be carried on from his Dominions against Portugal by any Power whatever, more particularly without his previous permission, and contrary to his declared intentions.

The Emperor of Brazil moreover has not declared War against Portugal; and the King's Servants had, and still have, reason to believe, that, however displeased His Imperial Majesty may be with the conduct of his Brother, the Infant Don Miguel, it is not His Imperial Majesty's intention to make such declaration of war.

Subsequently to the Correspondence upon this subject, His Majesty's Servants received Reports, that the number of Portuguese assembled at Plymouth was daily increasing; that although not armed, they and their Officers were regularly paid; that there were five transports ready at Plymouth for their conveyance; that other Troops in the service of the Emperor of Brazil were expected at the same Port from Germany, and that other levies were under consideration.

Under these circumstances, His Majesty's Servants not considering it expedient that a large number of Portuguese Officers and Troops should be assembled at Plymouth, the Secretary of State spoke to the Minister Plenipotentiary of the Emperor of Brazil at this Court, upon the subject, who informed Lord Aberdeen that he had nothing to say to those Troops; that His Excellency supplied money to the Marquis de Palmella, who disposed of it as he thought proper for his Countrymen, who were Refugees in this Country. I then requested you to do me the honour of calling upon me; and in conversa-

tion with you it appeared that the whole number of Portuguese Refugees assembled at Plymouth were not Troops, and had not served in that capacity; but a certain number were Officers and Troops, or had served, and all received pay from you as Troops; and I, as the head of His Majesty's Government, expressed to the Marquis de Palmella, both verbally and in writing, the desire of His Majesty's Government, that the Portuguese Officers and Troops, and those persons who had served as Troops, should remove from Plymouth to the neighbouring towns and villages, of which I sent you a list.

I stated at the same time, in answer to a question put by you, the readiness of the Government to consent to the departure of any, or all of the Refugees from this Country, if they should think proper, on condition that they should not go from this Country to Portugal, or to any of the Dominions or Colonies of Portugal, in a hostile character, or without the consent of the existing Government of Portugal.

In conversation you desired that I should put in writing my proposition, which you expressed a wish to have time to consider; and after receiving my Letter of the 20th November, you did me the honour of calling upon me again, and told me that the Portuguese Refugees were very unwilling to remove from Plymouth to the neighbouring towns and villages as I had proposed; but that they would quit England, and proceed to the Brazils.

I stated that I had no objection to this arrangement, provided that it was really and *bonâ fide* carried into execution; but that the King's Government could not allow of any attack or expedition of Troops from this Country to the Dominions or Colonies of Portugal.

You then asked me whether I would give them Convoy or a guarantee for their safe passage to the Brazils. I answered that I must consider the subject before I should give an answer.

Having considered the subject, and consulted with my Colleagues, I wrote on the 27th November, to inform you that Convoy would be given; and I again wrote to you on the 3rd December, to request you to let me know when the Refugees on board would be ready to sail.

In answer to this Letter, you have done me the honour of writing to me two Letters, to which it has become necessary that I should reply; first, by recapitulating the outline of what passed with the Plenipotentiaries in this Country of the Emperor of Brazils, and in the interviews with which you honoured me, and of what I stated to you in writing; secondly, by assuring you that His Majesty's Government are not at all desirous that the Portuguese Troops should, on their departure from England, be convoyed by any of His Majesty's Ships; thirdly, I must make some observations upon the topics which you have thought proper to introduce into your Letter.

The King's Government consider that the King has a full right to insist upon the departure from Plymouth of a Body of Officers and Troops (although not armed) paid by an Individual.

These Officers and Troops came here, not to carry on war; not to assume a menacing position; not to create disturbance in Portugal; not even to execute any party purpose; but to claim an asylum, and the rights of hospitality, never refused to the unfortunate within the King's Dominions.

You advert to the fatal consequences which this order to these Troops to quit Plymouth must have to the interests of Her Most Faithful Majesty; and you mention their departure from Europe, as relieving the *Parti de l'usurpation* from the fear in which their presence at Plymouth kept them.

Their presence at Plymouth can be considered, as above described, on one of two grounds only. That these Troops, as placed at Plymouth, with Transports in the Harbour, were in a menacing position, in relation to Portugal, or the Dominions, or the Colonies of Portugal; or that they were actually intended to attack Portugal, or her Dominions, or Colonies, from His Majesty's Port and Arsenal of Plymouth.

We have the highest authority in this Kingdom for saying that these Troops are not in the service of the Emperor of Brazil, viz. that of His Imperial Majesty's Minister Plenipotentiary. We know moreover from His Imperial

Majesty's own declarations that he is not at war with Portugal ; but even if these were His Imperial Majesty's Troops, and if His Imperial Majesty was at war with Portugal, I should wish to be informed what right His Imperial Majesty, or any Sovereign has to assemble his Troops within the Dominions of the King of England, and to carry on war from the Ports and Arsenals of those Dominions, not only contrary to His Majesty's consent, but against his positive prohibition ; or to menace His Imperial Majesty's Enemy, by the assembly of Troops and Transports in the King of England's Ports and Arsenals, without the King's consent.

But it is not the Emperor of Brazil who takes upon himself such an authority within His Majesty's Dominions ; it is an Individual, the Marquis de Palmella, who has committed these acts. I am certain that there is no person, excepting that Individual, who can blame His Majesty's Government for what has occurred.

I now come to the consideration of the last part of your Letter, viz. that which relates to the guarantee on the part of the King, of the safety of these Troops, on their passage to the Brazils.

You say that you desired a Guarantee, and that I proposed a Convoy. My recollection of what passed is different. You proposed a convoy, or a guarantee of the safety of the Troops from the attack of an enemy on their passage. The fact is so stated in my Letter to you of the 27th November. I desired to have time to consider of the proposition.

Upon considering it, and consulting with my Colleagues, we agreed to recommend to the King that a Convoy of His Majesty's Ships should be appointed to attend the Vessels conveying the Troops in question.

It must not be supposed that we were not sensible that we should be fully justified in declining to give either convoy or guarantee.

The departure of the Troops from England is not the act of the King's Servants ; it is that of the Marquis de Palmella. He alone is responsible for all the inconveniences which the Troops will suffer, and the risks which they will incur. The King's Servants have done no more than their duty in requiring the removal of the Troops from Plymouth.

But it is said that there is no difference in principle between the grant of such a guarantee as is required, and the refusal to allow these Troops to quit England as an armament, to make an attack upon the Portuguese Dominions.

If the Atlantic was the dominion of the King of England, there might possibly be no difference in principle in the two proceedings ; but as that is not the case, the King's Servants must have applied to the head of the Government of Portugal, to execute the guarantee ; by which measure they would necessarily have opened a diplomatic communication ; or they must have incurred the risk of the loss of the Troops embarked, attended by the consequences of avenging the injuries inflicted upon them by hostilities against the Portuguese Government ; these hostilities would have been so far unjust as growing out of this guarantee. I must add that the King has no right to guarantee the safety of the navigation of the Atlantic against the enterprizes of the Government *de facto* of Portugal, to the Enemies of that Government. It may be doubted, indeed, whether the King would have a right to give Convoy to those Troops going to the Brazils ; but the motive for the action would have been its justification. But I'll go farther, and assert, that there is not only a difference in principle between the measure of preventing the Portuguese Troops collected at Plymouth from invading the Portuguese Dominions, and that of giving a guarantee ; but that there is a great difference in fact between the measure of giving a guarantee for safe passage, and that of granting a Convoy.

When the King's Servants grant a Convoy, they have it in their power to prescribe the course and proceedings of the Vessels placed under its charge, and they are responsible for their safety ; but when they give a guarantee for the safety of Vessels navigating the Atlantic, whose course and proceedings are ordered by others, the latter may direct those Vessels to pursue such course as they please ; while His Majesty's Servants would be responsible for

the consequences, not only of those directions, but for those of the conduct of the Portuguese Government, in consequence of the course taken.

I have the honour to be, &c.

*The Marquis de Palmella.*

(Signed)

WELLINGTON,  
*Duque de Victoria.*

&c. &c. &c.

I have omitted to mention, that since I saw you, I have heard that more Troops have been ordered to Plymouth, from France and the Netherlands.

*Ninth Enclosure in No. 37.*

*The Duke of Wellington to the Marquis de Palmella.*

Monsieur Le Marquis,

*London, December 12, 1828.*

SINCE I returned to town yesterday I have learnt that the Troops raised in Germany by the Portuguese or Brazilian Ministers residing in this Country have arrived here, and I see that General Stubbs is gone to Plymouth to take the command of the Depôt of Troops there stationed, whom he has addressed in a General Order.

His Majesty's Servants have been informed by me of your assurances that these Troops are going to the Brazils, and they rely upon them. But I have to inform you, that as your Orders may be disobeyed, other Authorities may interfere in the disposal of these Troops.

The King's Servants have thought proper to advise His Majesty to give Orders that effectual Measures may be adopted to prevent any attack upon the Portuguese Dominions in Europe by any of these Troops.

I have the honour to be, &c.

*The Marquis de Palmella,*

(Signed)

WELLINGTON.

&c. &c. &c.

*Tenth Enclosure, A. in No. 37.*

*The Marquis de Palmella to the Duke of Wellington.*

Monsieur Le Duc,

*Londres, ce 20 Decembre, 1828.*

DANS la dernière entrevue que j'ai eu avec Votre Excellence j'ai eu l'honneur de l'informer de la détermination qui avoit été prise de faire partir en droiture pour le Brésil tous les Réfugiés Portugais, qui se trouvent actuellement à Plymouth et cette détermination étoit fondée, sur la persuasion qu'en quittant l'Angleterre aucun autre Asyle plus rapproché ne leur restait ouvert.

Cependant les communications que je viens de recevoir de l'Île de Terceira ouvrent une nouvelle perspective et me donnent l'assurance que cette Île se trouve paisible et toute entière sous le Gouvernement légitime, que Sa Majesté La Reine Donna Maria 2<sup>de</sup> y a été proclamée en vertu de l'abdication de son Auguste Père, et que l'Expédition que le Gouvernement, *de facto* de Portugal y avoit envoyé dans le dessein de l'envahir a entièrement disparu des Parages des Azores.

Dans de telles circonstances, je ne saurais douter que les Réfugiés Portugais qui partent d'Angleterre ne puissent se diriger vers l'Île Terceira, sans blesser aucunement le principe de la stricte neutralité que le Gouvernement de Sa Majesté Britannique desire conserver, et je crois de mon devoir de porter à la connoissance de Votre Excellence que ce parti, sous tous les rapports le plus convenable aux intérêts et à la situation des Emigrés Portugais, qui demeurent fidèles à leur légitime Souveraine, est celui qu'ils desireroient embrasser.

Votre Excellence voudra bien reconnoître que cette déviation du premier Projet que je lui avois annoncé est *réellement* motivé par le changement des circonstances, comme Votre Excellence pourra le voir par la date et le teneur de l'Adresse dont j'ai l'honneur de lui remettre ci jointe la Copie.

Personne ne peut revoquer en doute le Droit qu'a Sa Majesté Britannique d'exiger, qu'on n'organise pas dans ses Etats une Expedition hostile contre



aucun Pays quelconque ; ni le respect et les égards que les Individus qui sont venus chercher un Asyle dans ce Pays contre la persecution qu'ils éprouvoient dans leur Patrie, doivent à l'hospitalité qu'on a bien voulu leur accorder.

Je puis assurer Votre Excellence que ni moi ni mes Compatriotes n'avons jamais admis l'idée d'abuser de cette hospitalité, ni de violer les Lois sous la protection des quelles ils se sont accueillis.

Mais je pense en étant venu librement en Angleterre, aucun principe ne peut s'opposer à ce qu'ils en sortent de même, desarmés, et non point pour commettre aucun acte d'aggression, ou pour attaquer aucun Territoire, mais pour se diriger vers une possession de la Couronne de Portugal où leur légitime Souveraine est reconnue, c'est à dire pour rentrer chez eux.

J'ai eu l'honneur de recevoir deux Lettres de Votre Excellence datées du 8 et du 12 de ce mois, et je vous demanderai la permission, Monsieur le Duc, de repondre séparément au contenu de ces Lettres, en me bornant seulement dans celle ci à vous assurer que les bruits qui sont parvenues à votre oreille de Levées faites au nom, soit de Sa Majesté l'Empereur du Brésil, soit de Sa Majesté La Reine de Portugal dans les Pays Etrangers, sont totalement denués de fondement, à l'exception seulement de 260 Allemands, qui avoient été recrutés, comme j'ai déjà eu l'honneur de vous le dire, dans le dessein de renforcer le garnison de Madeira, et qui se trouvent dans un batiment qui a touché dans la rade de Plymouth, mais qui n'a reçu aucun secours, ni aucun approvisionnement, soit de guerre, soit de bouche, dans ce pays.

J'ai l'honneur, &c.

(Signed)

LE MARQUIS DE PALMELLA.

*Son Excellence Le Duc de Wellington.*

&c.

&c.

&c.

(Translation.)

*The Marquis de Palmella to the Duke of Wellington.*

Monsieur le Duc,

*London, 20 December, 1828.*

IN the last interview which I had with your Grace, I had the honour to inform you of the determination which had been taken to send direct to Brazil, all the Portuguese Refugees who are at present at Plymouth, and this determination was founded upon the persuasion that in quitting England, no other nearer asylum remained open to them.

The Communications, however, which I have lately received from the Island of Terceira, open a new prospect, and assure me that this Island remains tranquil, and entirely under the Legitimate Government ; that Her Majesty, the Queen Donna Maria II., has been proclaimed there by virtue of the Abdication of Her August Father ; and that the Expedition which the Government *de facto* of Portugal, had sent with the design of invading it, has entirely disappeared from the latitude of the Azores.

Under such circumstances I cannot doubt that the Portuguese Refugees who are about to leave England, may direct their course towards the Island of Terceira without any infraction of the principle of strict neutrality which it is the desire of His Britannic Majesty's Government to preserve, and I think it my duty to acquaint your Excellency that this measure, in all respects the best adapted to the interests, and the situation of the Portuguese Emigrants who have remained faithful to their lawful Sovereign, is that which they desire to take.

Your Excellency will acknowledge, that this alteration in the first determination which I announced to you, is *really* caused by the change of circumstances, as your Excellency may see, by the date and tenor of the Address of which I have the honour herewith to enclose a Copy.

No one can call in question the right of His Britannic Majesty to forbid the organization, in his Dominions, of a hostile expedition against any Country whatever, nor of the respect and consideration which the Individuals who have

sought refuge in this Country from the persecutions which they suffered in their own, owe to the hospitality which has been granted to them.

I can assure your Excellency, that neither myself nor my Fellow Countrymen, have ever admitted the idea of abusing that hospitality, or of violating the Laws under the protection of which they have been received.

But I think that, having come to England free, no opposition can be made to their leaving it in the same manner, unarmed, and not for the purpose of committing any act of aggression, or attacking any territory, but in order to direct their course towards a Possession of the Crown of Portugal, where their lawful Sovereign is recognised, that is to say, to return to their own home.

I have had the honour to receive two Letters from your Excellency, dated the 8th and 12th of this month, and I will request your permission, Monsieur le Duc, to reply separately to their contents, restricting myself in this one to assuring you that the reports which have reached your ear, of Levies made either in the name of His Majesty the Emperor of Brazil, or of Her Majesty the Queen of Portugal, in Foreign Countries, are totally unfounded, with the single exception that 260 Germans had been recruited, as I have already had the honour of informing you, for the purpose of strengthening the garrison of Madeira, and who are at this moment on board a vessel which has touched at Plymouth, but who have received no assistance nor any supplies, either of warlike stores, or provisions, in this Country.

I have the honour to be, &c.

(Signed)

LE MARQUIS DE PALMELLA,

*His Excellency The Duke of Wellington,*  
&c.      &c.      &c.

*Tenth Enclosure B, in No. 37.—(Translation.)*

Madam,

TO congratulate Your Majesty on the fortunate Voyage which the Almighty vouchsafed to grant you for the happiness and the deliverance of the good and loyal Portuguese; to greet Your Majesty as the Sovereign Queen of the great Portuguese Family, and to solicit You kindly to accept the sincere offer of the uncorrupted hearts of a number of Warriors, who, under a Provisional Government in this Island, defend the indefeasible Rights of Your Majesty, is both our intention and our duty.

The Island of Terceira, this small territory of the Azores, is, of the many Possessions belonging to the Crown of Your Majesty, the only one which has had the glory of having resisted the seduction of the mean suggestions of the usurping Government, and of not having perjured itself by violating the spontaneous oath taken freely by all Portuguese to the legitimate and great King, the August Father of Your Most Faithful Majesty.

In vain have the Enemies of Your Majesty, and our Enemies, endeavoured to corrupt our fidelity; but to-day, covered with the Royal Ægis of Your Majesty, and determined to enter into no compromise with them, nothing but the death of the last of us shall be capable of opening a passage to them, for the completion of their triumph.

Deign, therefore, Madam, to credit, and benignantly to receive these our sentiments, which are equally loyal and true.

God guard and prosper the life of Your Most Faithful Majesty; this is our wish and is most needful to us.

Angra, 6th December, 1828.

Signed,

DIOCHEIANS LEO CABREIRA.

JOAO JOZE DA CUNHA FERROZ.

JOZE ANTONIO DA SILVA TORRES.

ALEXANDER MARTINS PAMPLONA.

PEDRO HOMEN DA COSTA NOVONHA.

THEOTONIO ORINELLAS BURGIS.

AVILA NERONHA.

*Eleventh Enclosure in No. 37.*

*The Duke of Wellington to the Marquis de Palmella.*

Monsieur Le Marquis,

London, December 23, 1828.

I HAVE had the honour of receiving your letter of the 20th instant, and the Inclosure, being an Address from certain Inhabitants of Terceira to the Queen Donna Maria da Gloria, in consequence of the receipt of which you have desired to send the Portuguese troops now at Plymouth to the Island of Terceira.

On the 19th November I conveyed to you the desire of His Majesty's Government that the Portuguese troops assembled at Plymouth should be dispersed in the neighbouring towns and villages.

You informed me, some days afterwards, that they preferred to quit England and go to the Brazils, and I have since informed you that His Majesty's Government could not allow these troops to proceed from England, in a hostile character, to Portugal, or to the Portuguese Dominions or Colonies.

These are the same troops whom his Excellency the Marquis of Barbacena heretofore expressed a desire to send, as an Expedition, to the Azores under convoy of a detachment of His Majesty's Fleet; they are the same respecting whose separation from Plymouth you expressed such lively regret in your letter to me of the 3d instant, on account of the relief from apprehension which such departure would give to the *Parti de l'Usurpation*.

They are those Foreign troops of whom, as a depôt at Plymouth, General Stubbs has taken the command, and to whom he has addressed a General Order, and has published it in the Newspapers, notwithstanding that it is known to you and to General Stubbs that they are at Plymouth contrary to His Majesty's wishes; that His Majesty's orders have been conveyed to you to separate them from that Town; and that their presence there, as a body of troops, is inconsistent with the Law of England.

But this is not all: On the 15th August last, his Excellency the Vicomte d'Itabayana, His Imperial Majesty the Emperor of Brazil's Plenipotentiary at this Court, applied to the Secretary of State for permission to embark 1,180 stand of arms and 150 barrels of gunpowder on board the Brazilian Frigate *Isabel*.

Lord Aberdeen, in his reply, in which he consented to the embarkation of these stores, expressed his confidence that the Vicomte d'Itabayana would give an assurance that these arms and stores were not intended to be employed in the civil dissensions in Portugal and its Dependencies, as it would be impossible for the British Government to permit either the subjects of His Imperial Majesty the Emperor of Brazil, or those of the Queen Donna Maria, to carry on war from this country. That these acts of private warfare were forbidden by the Laws of the Land, and could not, therefore, be sanctioned by His Majesty.

His Excellency the Vicomte d'Itabayana answered, "*Quant à la première Partie de cette Note,*" (of which the substance precedes this sentence :) "*Je ne balancerai pas, mi Lord, à vous donner une réponse claire et précise en vous assurant que le Brésil qui est en paix avec le Portugal malgré le bouleversement déplorable qui vient d'y avoir lieu compatit sincèrement aux malheurs de ce Royaume, et n'a eu, jusqu'à ce jour l'intention de l'attaquer.*"

Notwithstanding this clear and precise answer, the arms and ammunition were sent in the *Isabel* Brazilian Frigate to the Azores, where that Frigate was actively employed at a late period.

I mention this fact just to point out to you that these troops, so collected and remaining in His Majesty's Town of Plymouth, as a Depôt commanded by General Stubbs, notwithstanding His Majesty's wishes and commands to the contrary, repeatedly expressed to you, have their arms and ammunition already in Terceira, even if you should not think it proper to purchase in England, and to send with them other arms.

I will not conceal from you my opinion that the asylum given to these Portuguese Refugees, and the hospitality afforded to them in this Country, have been improperly taken advantage of, and that these troops are still availing themselves improperly of the kindness and forbearance of His Majesty, by

remaining at Plymouth, as a military body, contrary to His Majesty's wishes and intentions.

You have been sufficiently long in this Country to know that His Majesty's course is always clear, open, and undisguised.

When He professes Neutrality, He will not permit that His Dominions should be used as the Arsenal, the Camp, the Port of Equipment, for carrying on War by any Sovereign or Individual.

The circumstances noticed in this Letter describe too accurately the character of this proposed voyage to the Island of Terceira, for His Majesty's Government to allow His Majesty to be deceived as to its real intentions. I, therefore, remind you, that above a month has now elapsed since I desired, in the name of His Majesty's Government, that the Portuguese Officers and Troops should be removed from Plymouth; and I again announce to you, that His Majesty's Government have taken measures to prevent these Troops from proceeding in a hostile character from England to any part of the Dominions or Colonies of Portugal, which measures they do not intend to advise His Majesty to countermand.

I have the honour to be, &c.

*The Marquis de Palmella.*

(Signed) WELLINGTON.

&c. &c. &c.

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*Twelfth Enclosure in No. 37.*

*The Marquis Palmella to the Duke of Wellington.*

Monsieur Le Duc,

*Londres, ce 28 Decembre, 1828.*

J'AI reçu la Lettre que votre Excellence m'a fait l'honneur de m'écrire en date du 23 de ce mois. Cette lettre contient d'abord une récapitulation de quelques unes des communications, qui ont eu lieu entre votre Excellence et Messieurs les Plénipotentiaires du Brésil, et ensuite entr'elle et moi, au sujet des Réfugiés Portugais, qui se trouvent à Plymouth; en second lieu, l'opinion que votre Excellence énonce de l'abus qui a été fait de l'hospitalité accordée à ces Réfugiés en Angleterre; en troisième lieu des plaintes sur le délai qu'éprouve l'exécution des ordres de Sa Majesté Britannique, qui ont rapport à ces Réfugiés, et enfin la déclaration de ce que les mesures qui ont été prises pour empêcher les susdits individus de se transférer en droiture d'Angleterre *avec un caractère hostile* vers un point quelconque du Territoire, ou des Colonies du Portugal, ne seront pas contremandées. Avant de présenter à votre Excellence les observations qu'il est de mon devoir de faire sur le contenu de sa dernière Lettre, et avant de répondre aux principales allégations qui se trouvent dans celle du 8 et du 12 du courant, dont j'ai déjà eu l'honneur d'accuser la reception, je m'en vais, Mons. le Duc, exposer d'abord clairement la question principale, et pratique, dont il s'agit dans ce moment, et qui me paraît extrêmement simple. J'avais espéré que vous voudriez bien prendre en considération la distinction que j'ai marquée dans ma Lettre du 20 de ce mois, sur la différence essentielle qui existe entre l'intention qu'ont les Réfugiés Portugais de se rendre à l'Ile Terceira, et celle que vous leur attribuez d'aller attaquer un point quelconque du Territoire Portugais. Je ne trouve cependant pas dans la Réponse de votre Excellence un seul mot qui se réfère à cette distinction quoiqu'elle me paraisse évidente.

Le Document dont j'ai eu l'honneur de vous transmettre une Copie par ma dernière Lettre, n'est pas revêtu comme votre Excellence le suppose, simplement des signatures de quelques Habitans de l'Ile Terceira; c'est une Adresse en forme, signée par les Membres du Gouvernement de cette Ile,—Gouvernement de droit, puis qu'il est autorisé par la Souveraine légitime de Portugal, et Gouvernement de fait, puis qu'il est reconnu et obéi comme tel dans toute l'Ile; et c'est pour en fournir la preuve à votre Excellence, et lui démontrer que les Réfugiés Portugais n'allaient point commettre d'aggression en se rendant à Terceira que j'ai cru devoir lui communiquer ce Document.

Au commencement de la présente Année les droits de la Reine Dona

Maria Second, étaient établi, et consacrés dans toutes les Possessions de la Monarchie Portugaise, et reconnues comme ils le sont encore par tous les Gouvernements Etrangers. Une Usurpation qui a été stigmatisée comme telle par Sa Majesté Britannique, ainsi que par les autres Souverains de l'Europe, a depuis lors dépouillé temporairement Sa Majesté Très Fidèle de la plus grande partie de ses Etats. L'Ile Terceira cependant lui est restée soumise, c'est-à-dire qu'elle est restée dans la même situation politique où elle se trouvait avant la Révolte du Portugal, et il est difficile de comprendre comment, lorsque des Portugais voués à la cause de leur Souveraine légitime se proposent d'aller dans cette Ile, l'on pourrait considérer leur départ comme une *expédition hostile*; ni comment, même en mettant entièrement de côté le mérite de leur Cause, et l'intérêt qu'elle inspire sans doute à Sa Majesté Britannique, on pourrait s'opposer à leurs projets, à moins de manquer à la neutralité que le Cabinet de Sa Majesté Britannique annonce vouloir strictement conserver.

Votre Excellence dit que Sa Majesté Britannique ne saurait permettre que ses Etats deviennent un Arsenal, un Camp, un Port d'équipement, pour les préparatifs de Guerre d'aucun autre Souverain ou Individu quelconque. Mais elle ne saurait vouloir non plus que l'asile accordé dans ses Etats peut être assimilé à une prison de la quelle on ne sortirait qu'en donnant sa parole de ne plus porter les armes.

Tous les arguments que Votre Excellence emploie pour démontrer que les Réfugiés composent un Corps de Troupes, et que leur intention, en allant à Terceira, est de se rendre utile à la défense de la Cause qu'ils ont embrassée, ne me paraissent pas souffrir dans le cas dont il s'agit, parceque, tout en admettant la supposition du projet que Votre Excellence indique, il ne s'en suit pas que le Gouvernement de Sa Majesté Britannique, si elle reste neutre, ait le droit de s'y opposer.

Pour que le principe que Votre Excellence établit fût applicable au cas actuel, il faudrait, ce me semble, que ces Individus fussent venues s'armer et s'organiser en Angleterre, et qu'ils en partissent tout équipés pour aller porter immédiatement la Guerre ailleurs, et il me paraît que le droit de surveillance qu'un Gouvernement neutre exerce légitimement dans de pareilles circonstances, se borne à vérifier que des Etrangers, aux quels il a accordé l'hospitalité, n'emportent ni armes ni munition, et à ce qu'ils ne se dirigent pas vers tout autre Pays où il ne pourraient entrer, que d'une manière hostile. Tout contrôle qui s'étendrait au de là de ces deux points me paraîtrait un empiètement sur la liberté d'Individus étrangers, peu compatible avec l'attitude impartiale d'un Gouvernement neutre. Appliquant ces réflexions au cas actuel, j'ai l'honneur d'assurer Votre Excellence que les Réfugiés Portugais partent de ce Pays comme ils y sont arrivés, c'est à dire sans armes, comme on pourra le constater authentiquement à Plymouth, et qu'ils en partiront non pas tous ensemble, mais successivement, et à mesure que les Transports, qui doivent les conduire seront prêts, et dans le dessein de se rendre à l'Ile Terceira, où ils ont l'assurance d'être reçus par des Autorités fidèles à Sa Majesté Donna Maria II, comme Compatriotes et comme Amis.

J'ose espérer que, d'après les termes mêmes de la Lettre de Votre Excellence, les mesures prises pour empêcher le débarquement d'une expédition avec un *caractère hostile* sur un point quelconque du Territoire Portugais ne pourront être appliquées dans le cas dont il s'agit.

Je ne puis me dispenser, Mons. le Duc, après lui avoir représenté les principales considerations qui s'offrent à mon esprit, sur la résolution que Votre Excellence me communique dans sa dernière Lettre, de dire quelques mots sur les principales allégations qu'elle contiennent au risque de répéter jusques à un certain point les idées que j'ai déjà énoncées. Votre Excellence, observe: 1<sup>re</sup> que les Troupes qui vont partir maintenant de Plymouth, sont les mêmes Troupes pour lesquelles Mons. le Marquis de Barbacena avoit sollicité, il y a quelques mois, une escorte de la Marine de Guerre Britannique; 2<sup>me</sup>. que ce sont les mêmes Troupes, au sujet du départ des quelles

j'ai exprimé dans ma Lettre du 3 de ce mois le plus vif regret ; 3<sup>mt</sup>. que ce sont les Troupes dont le Général Stubbs a pris le commandement, et aux quelles il a adressé un Ordre qui a été publié dans les Gazettes ; 4<sup>mt</sup>. que des armes et des munitions ayant été débarquées par la Frégate Brésilienne à l'Ile Terceira, ces Troupes auront de quoi s'armer en arrivant ; 5<sup>mt</sup>. Votre Excellence répète plusieurs fois et sous différentes formes que la continuation du séjour de ces Troupes à Plymouth est un acte de désobéissance aux ordres de Sa Majesté Britannique, et elle ajoute que, dans son opinion, on a commis un abus de l'hospitalité qui leur a été accordé dans ce pays ; 6<sup>mt</sup>. Enfin Votre Excellence juge convenable, en terminant, de me rappeler que plus d'un mois s'est écoulé depuis que l'ordre de Sa Majesté a été signifié pour que les Officiers et les Soldats Portugais sortissent de Plymouth.

Ad 1<sup>um</sup>. La Demande adressée à Votre Excellence par Mons. le Marquis de Barbacena avoit pour but de garantir les Réfugiés Portugais, durant le trajet de mer d'Angleterre aux Azores, du danger qu'ils pourraient courir par la rencontre de Batimens de Guerre Portugais. Cette demande a été refusée comme le Gouvernement Britannique avait indubitablement le droit de le faire, mais la demande que je lui adresse aujourd'hui, est d'une nature toute différente ; ce n'est plus une escorte pour éviter les dangers, aux quels ils s'exposent volontairement, que l'on sollicite, c'est seulement l'assurance, non pas d'être protégées mais de n'être pas détenus par les Batimens de Guerre de Sa Majesté Britannique en se rendant d'Angleterre à l'Ile Terceira.

Ad 2<sup>um</sup>. En exprimant à Votre Excellence dans ma Lettre du 3 de ce mois, les tristes conséquences que le départ d'Angleterre des Emigrés Portugais, pourrait avoir, j'ai dit une vérité, qui me paraît évidente, et que les Partisans du Gouvernement actuel de fait du Portugal répètent avec triomphe depuis que cette nouvelle est devenue publique. Votre Excellence dans sa Lettre du 8 de ce mois, indique que la résolution de faire partir les Portugais d'Angleterre est un acte volontaire de leur part, mais je prendrai la liberté de lui rappeler qu'il ne leur restait que le choix entre cette résolution, ou celle de se soumettre à résider en nombres déterminés dans les endroits désignés pour cet effet, les Officiers séparés des Soldats, et que ce traitement, qui n'est d'ordinaire réservé qu'aux Prisonniers de Guerre, aurait produit un tout aussi mauvais effet, que leur départ tendant à accréditer l'opinion erronée qu'on cherche à répandre sur les dispositions du Cabinet de Sa Majesté Britannique au sujet des affaires du Portugal. J'ai donc pu, je pense avec raison, exprimer des regrets sur le motif qui donnait lieu au départ des Réfugiés Portugais, et je n'ai jamais pris la liberté, en m'adressant à Votre Excellence, de blâmer, comme elle m'accuse à tort dans une de ses Lettres, les déterminations de son Gouvernement.

Ad 3<sup>um</sup>. J'ignore qu'elle est l'importance que Votre Excellence attache à répéter dans ses deux dernières Lettres que le Général Stubbs a pris le Commandement du Dépôt Portugais à Plymouth. Cette circonstance me paraît tout à fait indifférente, et je puis même assurer Votre Excellence, que le Général Stubbs n'est pas du nombre des Individus qui vont partir d'Angleterre, et qu'il n'a pris dernièrement la direction du Dépôt, que parceque Mons. Candido José Xavier qui s'y trouvait avant lui, est tombé malade. L'Ordre du jour, dont Votre Excellence fait mention a été publié dans les Gazettes comme d'autres Ordres semblables au Réfugiés Portugais adressés plusieurs mois auparavant, l'avaient été ; Votre Excellence sait bien qu'il est impossible dans ce pays d'empêcher que les Papiers Publiques ne s'emparent de tout ce qui peut directement, ou indirectement, exciter le moindre intérêt. Au reste le dit ordre du jour, comme Votre Excellence a pu le voir, n'avait pour but que de prendre les mesures nécessaires pour préparer la prochaine dissolution du dépôt.

Ad 4<sup>um</sup>. Il ne m'appartient d'entrer dans l'examen des Rapports qui ont eu lieu entre Mons. le Comte d'Aberdeen, et Mons. le Viscomte d'Itabayana,—Mais tout ce que, je puis dire c'est que s'il n'existe pas encore dans l'Ile Terceira un Arsenal suffisamment pourvu d'armemens et de munitions, je croirais qu'il est de mon devoir et dans l'intérêt du service de Sa Majesté la Reine Dona Maria 2<sup>de</sup> de prendre les Mesures nécessaires pour y pourvoir aussitôt que possible ; et je suis persuadé qu'une fois débarqués dans les Possessions Portugaises, les Ré-

fugies qui se trouvent actuellement en Angleterre n'ont plus à répondre de leur conduite vis à vis d'aucune autorité que de celle de leur légitime Souveraine.

Ad 5<sup>um</sup> Votre Excellence m'adresse un reproche, que je ne mérite pas, au sujet du délai qui a eu lieu pour le départ des Réfugiés Portugais. Elle sait que j'ai considéré l'ordre de les disséminer, et de séparer les Officiers des Soldats, comme une condition que l'on attachait à leur séjour en Angleterre, et forcé à choisir entre cette condition, ou leur départ d'Angleterre, j'ai annoncé à Votre Excellence qu'ils se décidaient à partir. Votre Excellence a acquiescé à ce choix, sans me fixer cependant un terme marqué, et lors même qu'elle l'auraient fixé, cette détermination auroient été sujette aux élémens, et Votre Excellence n'ignore pas que depuis un mois les vents contraires pour la sortie des Batimens qui se dirigent au sud, ont presque toujours régnés.

Votre Excellence ne saurait ignorer non plus que l'on s'occupe activement à Plymouth des préparatifs de départ de quatre Batimens de Transports qu'emmènent à peu près 600 hommes, et seront suivis successivement par d'autres.

Elle peut être persuadé que dès que ce départ est devenu nécessaire, personne plus que moi ne désire d'en hater le moment ; mais avec les moyens bornés qui sont à ma disposition, il aurait été impossible de mettre plus de célérité qu'on n'a mis à ces préparatifs. Je dois croire qu'au moment où j'ai l'honneur de vous écrire quelques uns de ces Batimens sont déjà à la voile.

Il doit m'être permis d'après ce que je viens d'exposer de rejeter l'accusation que Votre Excellence m'adresse, et de l'assurer que l'on n'a point volontairement abusé de la tolérance du Gouvernement de Sa Majesté Britannique et que cette tolérance aura bientôt cessé d'être nécessaire.

Ad 6<sup>um</sup>. Je crois avoir répondre à cette sixième allegation, en même tems qu'à la précédente, et je craindrais d'abuser du temps de Votre Excellence, si je prolongeais encore cette Lettre, en me référant à tout ce que contiennent celle de Votre Excellence du 8 et 12 de ce mois. Je me contenterai d'ajouter en peu mots que la réunion des Réfugiés Portugais à Plymouth n'a pas été préméditée, mais au contraire, elle a été la conséquence de l'émigration successive d'Individus militaires, ainsi que de toutes les autres classes, (car un tiers de ceux qui se trouvent à Plymouth n'ont jamais porté les armes) émigration qui dure encore au raison du système de persécution adopté en Portugal, et dont on ne fera certainement pas un reproche à ceux qui en sont victimes.

La réunion de ces Emigrés, qui peu à peu arrivaient à Plymouth offrait l'avantage de leur donnoit moyens de pourvoir à leur subsistance avec plus d'économie. et de pouvoir en même tems veiller sur la conduite de tant d'Individus de toutes les classes de la Société. Je me trouve heureux de pouvoir assurer Votre Excellence qu'il n'y a pas eu jusques à ce moment parmi les Emigrés Portugais en Angleterre, un seul qui se soit rendu coupable d'aucune infraction des Lois du Pays. Jusques au 19<sup>e</sup> du mois dernier je n'ai pas eu lieu de supposer que le séjour de ces individus à Plymouth fut contraire à la volonté du Gouvernement de Sa Majesté Britannique. Dès que je l'ai su, je me suis hâté de prendre des mesures pour leur départ, et j'espère qu'il aura déjà eu lieu au moment où j'écris.

J'ai d'abord cru qu'il ne leur resté d'autre asile que le Brésil, et j'ai eu l'honneur d'annoncer à Votre Excellence que c'était leur destination. Les Nouvelles reçues de l'île Terceira m'ont induit d'après le désir unanime de tous les Individus dont il s'agit, à altérer ce premier dessein. J'avais dans ma dernière entrevue avec Votre Excellence témoigné le désir d'obtenir du Gouvernement de Sa Majesté Britannique une garantie, pour le cas où ils rencontre raient en route des Batimens de Guerre appartenans au Gouvernement de fait du Portugal. Votre Excellence a cru entendre que je lui demandais une escorte. Je puis l'assurer cependant, que telle n'était pas mon intention quoiqu'il soit possible que je me suis mal expliqué, et j'ai jugé de mon devoir de déclarer à Votre Excellence les motifs qui ne me permettaient pas d'accepter une escorte qu'elle vouloit bien m'accorder. Au reste je pense que des Individus qui seraient trouvés sans armes aboard des Batimens Anglais, ou de toute autre Nation neutre seront toujours, et à tout évènement, sous l'égide

de la loi des Nations, et j'observais seulement ici, en réponse à une objection que je trouve dans une des Lettres de Votre Excellence, que la garantie que je demandais au Gouvernement Britannique ne l'aurait engagé à rien, dans la supposition que les Emigrés Portugais eussent usé de mauvaise foi, et suivi une destination différente de celle qu'il auraient annoncée.

Dans sa Lettre du 8 Décembre Votre Excellence prend la peine de démontrer que les Réfugiés Portugais, Officiers et Soldats, qui se trouvent en Angleterre, ne sont pas au service de Sa Majesté l'Empereur du Brésil, et que d'ailleurs ce Souverain n'est pas en Guerre avec le Gouvernement de Portugal, et que lors même qu'il le serait aucun Souverain étranger n'a le droit de réunir des Troupes dans les Etats de Sa Majesté Britannique, ni de se servir de ses Ports, et de ses Arsenaux pour porter la Guerre dans les Pays étrangers. Votre Excellence ajoute que *ce n'est pas un Souverain, mais un Individu particulier, le Marquis de Palmella, qui a commis ces actes!* Ma réponse à cette dernière accusation a déjà été faite dans cette Lettre; je n'ai commis aucuns actes que j'ai à me reprocher. Le rassemblement à Plymouth me paraissait innocent tant que la volonté de Sa Majesté Britannique ne m'a pas été signifiée. Pour des actes hostiles, ils n'ont jamais eu lieu: les projets que l'on m'a attribué n'ont pas le moindre fondement, et je ne me crois pas obligé de défendre autre chose que mes propres actes. Quant à la qualité dans la quelle j'agis, et que Votre Excellence considère comme celle d'un Individu particulier, je crois que cette question, secondaire en comparaison des grands intérêts dont il s'agit, ne vaut guère la peine à present d'être légalement discuté. Il est possible que le caractère dont j'avais l'honneur d'être revêtu, se soit, diplomatiquement parlant, effacé par les changemens qui ont eu lieu depuis l'usurpation de la Couronne de Portugal; et je ne chercherai nullement à altérer l'opinion que le Ministère de Sa Majesté Britannique s'est formé là dessus, quoi qu'elle ne soit pas adoptée par d'autres Cabinets de l'Europe, notamment par celui de Vienne.

Mais il est également sur que le désir témoigné par l'Auguste Père de Sa Majesté la Reine de Portugal de révalider ma nomination, démontre suffisamment que je jouis de la confiance du seul Protecteur naturel qu'une combinaison extraordinaire de circonstances a laissé à la jeune Reine de Portugal, et que j'agis au nom et dans l'intérêt de cette Souveraine, avec l'acquiescement et d'après les vœux de tous les sujets qui lui sont restés fidèles, et qu'à moins de vouloir soutenir, ce qu'on ne peut je crois faire de bonne foi, que les intérêts de la Reine Donna Maria II, ne peuvent, et ne doivent être défendus par Personne; c'est à moi, j'ose le dire sans déguisement, qu'appartient par la nature des circonstances l'honneur de remplir ce devoir sacré.

Je vous demande de nouveau pardon de la longueur de cette Lettre, et j'ai l'honneur d'être, &c.

(Signé)

LE MARQUIS DE PALMELLA.

*Son Excellence M. le Duc de Wellington.*

§c. §c. §c.

(Translation.)

*The Marquis de Palmella to the Duke of Wellington.*

M. le Duc,

*London, December 28, 1828.*

I HAVE received the Letter which your Excellency did me the honour of writing to me, dated the 23rd of this month.

This Letter contains, first, a recapitulation of some of the Communications which have passed between your Excellency and the Plenipotentiaries of Brazil, and afterwards between you and myself, upon the subject of the Portuguese Refugees, who are at Plymouth. Secondly, the opinion put forth by your Excellency of the abuse which has been made of the hospitality granted to these Refugees in England. Thirdly, complaints of the delay in carrying into execution the orders of His Britannic Majesty, relating to these Refugees. And, lastly, the declaration, that the measures which have been



taken for preventing the abovementioned Individuals from proceeding directly from England *with a hostile character*, towards any point whatever of the Territory or the Colonies of Portugal, will not be countermanded.

Before submitting to your Excellency the observations which it is my duty to make upon the contents of your last Letter, and before replying to the principal allegations brought forward in those of the 8th and 12th Instant, the receipt of which I have already had the honour of acknowledging, I proceed, Mons. le Duc, to state first, clearly, the principal and practical question in point at the present moment, and which appears to me to be extremely simple. I had hoped that you would have taken into consideration the distinction I had drawn in my Letter of the 20th of this month, namely, the essential difference which exists between the intention entertained by the Portuguese Refugees of proceeding to the Island of Terceira, and that which you attribute to them of going to attack some part of the Portuguese Territory. I do not find, however, in your Excellency's Answer, a single word relative to this distinction, although it appears to me evident.

The Document of which I had the honour of transmitting to you a Copy in my last Letter, is not subscribed, as your Excellency supposes, simply with the Signatures of some of the Inhabitants of the Island of Terceira; it is a formal Address, signed by the Members of the Government of that Island—a Government of right, since it is authorized by the Legitimate Sovereign of Portugal,—and a Government in fact, since it is acknowledged and obeyed as such in the whole Island,—and it was for the purpose of furnishing your Excellency with the proof of this, and to show that the Portuguese Refugees were not going to commit any aggression in proceeding to Terceira, that I thought it my duty to communicate this Document to you.

At the commencement of the present year the Rights of Queen Donna Maria II. were established and sanctified in all the Possessions of the Portuguese Monarchy, and recognized, as they still are, by all Foreign Governments. An Usurpation, which has been stigmatized as such by His Britannic Majesty, as well as by the other Sovereigns of Europe, has, since that time, temporarily deprived Her Most Faithful Majesty of the greater part of Her Dominions. The Island of Terceira has, however, remained subject to Her—that is to say, it has remained in the same political situation in which it was previously to the revolt in Portugal; and it is difficult to comprehend when Portuguese, devoted to the Cause of their legitimate Sovereign, propose to go to that Island, how their departure can be considered as a hostile expedition, or how, even putting aside entirely the justice of their Cause, and the interest with which, without doubt, it inspires His Britannick Majesty, their undertaking can be opposed, at least without violating the neutrality which the Cabinet of His Britannic Majesty declares it to be their wish strictly to preserve.

Your Excellency observes, that His Britannic Majesty cannot permit His Dominions to be made an Arsenal, a Camp, a Port of Equipment, for the warlike preparations of any other Sovereign or Individual whatever; but neither can it be wished that the asylum afforded in His Dominions should be made to resemble a prison, which it is only permitted to leave upon giving parole no longer to bear arms.

All the arguments which your Excellency employs to prove that the Refugees form a body of Troops, and that their intention of going to Terceira is to render themselves useful in defence of the Cause which they have embraced, do not appear to me to be conclusive in the present case, because, even admitting the supposition of the project which your Excellency points out, it does not thence follow that the Government of His Britannick Majesty, if it remain neuter, has the right to oppose it.

In order to make the principle which your Excellency lays down applicable to the present case, it would be necessary, as it seems to me, that those Individuals should have come to England to arm and organize themselves, and that they should have taken their departure, fully equipped, for the purpose of immediately waging war elsewhere. And it appears to me that the right of “*surveillance*” which a neutral Government can lawfully exercise in such

circumstances, is limited to taking care (*à vérifier*) that Foreigners to whom it has granted hospitality, should not carry away either arms or munitions of war, and that they should not direct their course towards any other Country into which they could only enter in a hostile manner. All controul which should extend beyond these two objects, would appear to me an infraction upon the individual liberty of Foreigners, which but ill accords with the impartial attitude of a neutral Government.

Applying these reflexions to the present case, I have the honour to assure your Excellency, that the Portuguese Refugees leave this Country as they arrived in it, that is, without arms, as may be satisfactorily proved at Plymouth, and that they will leave it, not altogether, but at successive intervals, and according as the Transports which are to carry them shall be ready, and with the intention of going to the Island of Terceira, where they have the assurance of being received by the Authorities, which are faithful to Her Majesty Donna Maria II., as fellow-countrymen, and as friends.

I venture to hope that, according to the very terms of your Excellency's letter, the measures taken to prevent the landing on any part of the Portuguese territory of an expedition bearing on *hostile character*, cannot be applied in the present case. I cannot, M. le Duc, after having shown you the principal considerations which have offered themselves to my mind, on the resolution which your Excellency communicated to me in your last Letter, resist saying a few words on the principal allegations contained in that Letter, at the risk of repeating to a certain degree the opinions which I have already expressed.

Your Excellency observes, 1st—that the Troops which are now about to leave Plymouth, are the very Troops for which the Marquis of Barbacena solicited, some months ago, a convoy of the British Navy. 2dly, that they are the same Troops, on the subject of whose departure I expressed so much regret in my Letter of the 3d instant. 3dly, that they are the Troops of whom General Stubbs took the command, and to whom he addressed an Order which has been published in the Newspapers. 4thly, that arms and munitions having being landed by the Brazilian frigate at the island of Terceira, these troops will have the means of arming themselves on their arrival. 5thly, your Excellency repeats several times, and in different ways, that the continuance of these troops at Plymouth is an act of disobedience to the orders of His Britannic Majesty, and your Excellency adds, that in your opinion an abuse of the hospitality, which was granted to them in this Country has been committed. 6thly and lastly, your Excellency, in conclusion, thinks proper to remind me that more than a month has passed since His Majesty's order was signified for the departure of the Portuguese Officers and Soldiers from Plymouth.

With regard to the 1st point, the application addressed to your Excellency by the Marquis de Barbacena had for its object the guarantee of the Portuguese Refugees from the danger they might incur in meeting with Portuguese ships of war during their passage by sea, from England to the Azores. This request was refused, as it was undoubtedly the right of the British Government to do; but the request which I address to your Excellency this day, is of a totally different nature; it is no longer a Convoy, in order to escape the dangers to which they voluntarily expose themselves, which is solicited, but merely an assurance not that they may be protected, but that they may not be detained by the ships of war of His Britannic Majesty in their passage from England to the Island of Terceira.

With respect to the 2d—in explaining to your Excellency, in my Letter of the 8th Instant, the sad consequences which might result from the departure of the Portuguese Emigrants, I spoke a truth, which appears to me evident, and which the Partisans of the actual *de facto* Government of Portugal repeat with triumph, since the knowledge of it has become public. Your Excellency, in your Letter of the 8th Instant, mentions that the resolution taken by the Portuguese to leave England, is a voluntary act on their part; but I will take the liberty to remind your Excellency, that there remained for them only the choice between this determination, or that of submitting to reside in stated numbers, at places selected for that purpose, the Officers separated from the soldiers; and that this treatment, which is generally reserved for prisoners of war, would

have produced as bad an effect as their departure, by tending to attach credit to the erroneous opinion, which it was endeavoured to spread, on the subject of the disposition of the British Cabinet with regard to the affairs of Portugal.

I might therefore, I think, with reason express regret at the motive which occasioned the departure of the Portuguese Refugees, and I have never taken the liberty, in addressing your Excellency, to find fault, of which your Excellency unjustly accuses me in one of your Letters, with the determinations of your Government.

3dly. I know not what importance your Excellency attaches to the circumstance repeated in your two last Letters, of General Stubbs having taken the command of the Portuguese depôt at Plymouth. This circumstance appears to me quite unimportant, and I can even assure your Excellency that General Stubbs is not among those who are about to leave England, and that he has only lately taken the direction of the depôt, because M. Candido José Xavier, who was there before him, is unwell.

The Order of the Day, which your Excellency mentions, was published in the Newspapers, as were other similar Orders addressed some months before to the Portuguese Refugees: Your Excellency well knows, that it is impossible in this Country to prevent the public papers from seizing upon every thing which can directly or indirectly excite the least interest. Besides, the said Order of the Day, as your Excellency might have seen, had merely for its object the taking the necessary measures to prepare for the speedy dissolution of the Depôt.

4thly. It does not belong to me to examine the Communications which have taken place between Lord Aberdeen and the Viscount d'Itabayana; but all that I have to say is, that if there is not in the Island of Terceira an arsenal sufficiently furnished with arms and ammunition, I should conceive it to be my duty, and for the interest of Her Majesty, the Queen Donna Maria II., to take the necessary measures for providing them as soon as possible; and I am persuaded that, once landed on the Portuguese Possessions, the Refugees, who are at present in England, have no longer to answer for their conduct to any authority but that of their lawful Sovereign.

5thly. Your Excellency addresses to me a reproach which I do not deserve, on the subject of the delay which has taken place in the departure of the Portuguese Refugees. Your Excellency knows that I considered the order to disperse them and to separate the Officers from the Soldiers as a condition attached to their remaining in England; and, forced to choose between this condition and their departure from England, I have announced to your Excellency that they have decided to go. Your Excellency agreed to this decision, without however fixing any stated time, and should you even have fixed it, the determination must have depended upon the elements; and your Excellency is aware that for the last month contrary winds for the sailing of Vessels bound to the South have scarcely ceased to blow. Your Excellency is also aware that active preparations are going on at Plymouth for the departure of four Transports, carrying 600 men, and that they will be followed by others in succession.

Your Excellency may be persuaded that so soon as this departure became necessary, no one desired more than I did to hasten the moment of it. But with the limited means which are at my disposal, it would have been impossible to use more activity than has been used in these preparations. I have reason to think that, at this very moment that I have the honour of addressing you, some of those Vessels are already at sea. I must be permitted, after what I have stated, to reject the accusation which your Excellency brings against me, and to assure you that the forbearance of the Government of His Britannic Majesty has not been intentionally abused, and that that forbearance will soon have ceased to be necessary.

6thly. I think I have replied to the sixth allegation, at the same time with the preceeding one, and I fear that I should be encroaching upon your Excellency's time were I still to lengthen this Letter by referring to every point con-

tained in your Excellency's of the 8th and 12th instant. I shall content myself with adding, in a few words, that the assembling of the Portuguese Refugees at Plymouth was not premeditated, but, on the contrary, was the consequence of the successive emigration of Military Men, as well as of those of every other class, (for a third of those who are at Plymouth have never carried arms)—an emigration which still continues in consequence of the system of persecution adopted in Portugal, with which those who are the victims cannot certainly be reproached. The assembling of these Emigrants, who arrived by degrees at Plymouth, offered the advantage of providing means for their subsistence with greater economy, and of being able at the same time to watch over the conduct of so many Individuals of all classes of society.

I am happy in being able to assure your Excellency that there has not been, up to this moment, amongst the Portuguese Emigrants in England, a single Person who has been guilty of any infraction of the Laws of Nations. Up to the 19th of last month, I had no reason to suppose that the residence of those Individuals at Plymouth was contrary to the wish of the Government of His Britannic Majesty. As soon as I knew it, I hastened to take measures for their departure, and I hope that it has already taken place, at the moment I am writing.

I thought, in the first place, that there remained no other asylum for them than Brazil, and I have the honour to announce to your Excellency, that that was their destination.

The news received from the Island of Terceira induced me, by the unanimous desire of all the Individuals whom it concerned, to change this first place. I had, in my last interview with your Excellency, expressed a desire to obtain from the Government of His Britannic Majesty a Guarantee, in case they should meet on the voyage any Men of War belonging to the Government, *de facto*, of Portugal. Your Excellency believed that I asked you for an escort. I can, however, assure you that such was not my intention; although it is possible that I may have badly expressed myself; and I thought it my duty to declare to your Excellency the motives which prevented me from accepting an escort which you were willing to grant me.

I also think that Individuals found without arms on board English Ships, or those of any other neutral Nation, will be always, and on all occasions, under the protection of the law of Nations, and I only here observe, in answer to an objection that I find in one of your Excellency's Letters, that the guarantee which I asked for, from the British Government, would have bound it to nothing, in case that the Portuguese Emigrants should be guilty of a breach of faith and follow a different course from that which they announced.

In your letter of the 8th December, your Excellency takes the trouble to point out that the Portuguese Refugees, Officers, and Soldiers, who are in England, are not in the service of His Majesty the Emperor of Brazil, and that moreover that Sovereign is not at war with the Government of Portugal, and that even if he were, no Foreign Sovereign has the right to assemble Troops in the Dominions of his Britannic Majesty: nor to make use of his Ports, and his Arsenals, to carry war into Foreign Countries. Your Excellency adds "*that it is not a Sovereign but a Private Individual, the Marquis of Palmella, who has committed those acts!*"

My answer to this last accusation has been already given in this Letter: I have committed no acts for which I need blame myself. The assemblage at Plymouth appeared to me innocent, so long as the pleasure of His Britannic Majesty had not been signified to me. As for hostile acts they never took place: the projects that are attributed to me have not the least foundation, and I do not think myself obliged to defend any thing but my own acts. As for the capacity in which I act, and which Your Excellency considers as that of a private Individual, I think this a secondary consideration, as compared with the great interests which are in question, and as scarcely worth being at this time formally discussed. It is possible that the character with which I had the honor to be invested, may be cancelled, diplomatically speaking, by the changes

which have taken place since the usurpation of the Crown of Portugal ; and I shall by no means seek to change the opinion which the Government of His Britannic Majesty has formed upon that subject, although that opinion be not adopted by the other Cabinets of Europe, particularly by that of Vienna.

But it is equally certain that the wish shewn by the August Father of Her Majesty the Queen of Portugal to renew my appointment, sufficiently proves that I enjoy the confidence of the only natural Protector that an extraordinary combination of circumstances has left to the young Queen of Portugal ; that I act in the Name and for the Service of that Sovereign,—with the acquiescence, and according to the wishes of all the subjects who have remained faithful to her ; and that, unless it is maintained, which I cannot suppose any one could do in earnest, that the interests of the Queen Donna Maria II. cannot, and ought not to be defended by any one, it is to me, and I speak it without disguise, that belongs, from the nature of the circumstances, the honour of fulfilling this sacred duty.

I again beg that you will excuse, M.le Duc, the length of this Letter, and I have the honour to be, &c.

(Signed)

LE MARQUIS DE PALMELLA.

*His Excellency the Duke of Wellington.*

&c.      &c.      &c.

*Thirteenth Enclosure in No. 37.*

*The Duke of Wellington to the Marquis de Palmella.*

Monsieur le Marquis,

*Apthorpe, December 30, 1828.*

I HAD the honour of receiving, this morning, your Letter of the 28th instant, to which I do not hesitate to send an answer from hence, as nothing contained in it can have any effect in altering the decision of His Majesty's Government.

The Troops collected at Plymouth are those referred to by the Marquis de Barbacena in his Application to me of the 15th October last. They are the same Troops whom I requested you, on the 19th November last, to remove from Plymouth to the neighbouring Towns and Villages.

We know that there are arms for them at Terceira.

The Azores are part of the Dominions of Portugal, and we know that a Civil War is now carried on in those Islands, particularly in that very Island of Terceira. His Majesty is neutral in that Contest, and he cannot permit a Body of Troops, respecting whom he thought proper to give Orders that they should remove from Plymouth, to go to Terceira, from any Port in his Dominions. There can be no doubt, in the mind of any man, who is acquainted with the circumstances, of the object in view, in sending these Troops to Terceira, and, I repeat to you, Monsieur le Marquis, that they will not be allowed to land there.

I might here close this Letter, if there were not some points in your's to which it is necessary that I should advert.

You say that His Majesty has no right to treat these Troops as Prisoners, and to send them, separated from their Officers, to such Towns as He may think proper.

We do not pretend to treat them as Prisoners ; and, I confess, that I am astonished that two years should have effaced from your recollection the Discussions and Transactions with Spain, of which you were informed, respecting a similar Body of Portuguese Troops not Prisoners. If my memory does not fail me, His Majesty's Government then insisted, that the King of Spain should not only separate Officers from Soldiers, placing a certain number of the latter only in the same Town, but that the whole should be removed far into the interior of the Country, and that a detachment of His Majesty's Troops was sent to Portugal because the King of Spain had not performed the duties of neutrality as was required from His Catholic Majesty,

and had suffered the Portuguese Troops, in Spain, to commit the very act, which I have repeatedly assured you, that the King of England will not permit those in England to commit.

But you forget, likewise, that these are undeniably a Body of Foreign Troops in England, respecting whom we are corresponding, and instead of treating them as Prisoners, I should say, that His Majesty's Servants have done very little in requiring that they should quit Plymouth, and be separated from their Officers; the latter to go to Exeter, or where they pleased, as Individuals, the former to different Towns named, not in specified numbers, as you state, but in numbers, not exceeding certain specified numbers, in each Town. This was proposed for their convenience as well as for that of the Towns named.

I was charged with this discussion with you, because Monsieur le Vicomte d'Itabayana informed Lord Aberdeen that it was the Marquis de Palmella who paid these Troops. That Gentleman has no political character in this Country, I undertook this disagreeable office, in order to avoid giving this discussion any official form. But the case is the same, whatever be the form given to the discussion, and I earnestly intreat you to put an end to it, by removing the Troops immediately from Plymouth, according to my suggestion of the 19th November, if you do not think proper to send them to the Brazils.

In making this entreaty, I do so in the true spirit of a Friend, and I must add, that you render but little, if any, service to the cause of the Queen Donna Maria da Gloria, in obliging the King to resort to the measures which have been ordered, in case of any breach of His Majesty's neutrality, and that you impose upon me, personally, a most painful duty in obliging me to inform you, that you will be responsible for all the consequences which will follow your omission to obey His Majesty's commands, as conveyed to you by me.

I confess that I am astonished that you, who have so long served your Country in a Diplomatick Situation in this, should not see that it is impossible that this Government should not insist upon the adoption of the measure, which I required should be adopted on the 19th November, or its substitute, as proposed by yourself.

I have the honour, &c.

(Signed) WELLINGTON,  
DUQUE DE VICTORIA.

*The Marquis de Palmella.*

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*Fourteenth Enclosure in No. 37.*

*The Marquis de Palmella to the Duke of Wellington.*

Monsieur le Duc,

*Londres, ce 2 Janvier, 1829.*

J'ai eu l'honneur de recevoir avant hier au soir votre Lettre du 30 du Mois dernier, et j'avouerai à Votre Excellence que la résolution qu'elle m'annonce me pénètre d'une vive douleur.

Votre Excellence insiste de nouveau sur la nécessité d'éloigner immédiatement de Plymouth les Militaires Portugais qui s'y trouvaient réunis. Je me flatte qu'*au moment où j'écris*, quatre bâtimens de transport, chargés de monde, qui depuis quinze jours se trouvoient déjà prêts à partir au premier vent favorable, auront mis à la voile. Je m'occupe avec toute la célérité possible de préparer ceux qui doivent les suivre, et je puis assurer Votre Excellence que depuis le moment où je lui ai déclaré que ces Individus partiraient, plutôt que d'accepter les conditions que le Gouvernement Britannique mettoit à la continuation de leur séjour en Angleterre, c'est à dire, celles d'être disséminés sur différents points marqués par Votre Excellence, et les Officiers séparés des Soldats, depuis ce moment, dis-je, on s'est incessamment occupé des préparatifs de leur départ. Votre Excellence a du être informé de ces préparatifs ainsi que de l'impossibilité où les Vaisseaux se trouvoient depuis plusieurs semaines de quitter Plymouth, en raison de la continuité des vents contraires, difficulté que ni les ordres du Gouvernement Britannique, ou toute ma bonne volonté, ne pouvoient leur faire surmonter.

Le changement de temps qui a eu lieu depuis hier me fait croire qu'il seroit trop tard pour leur envoyer de nouveaux ordres. D'ailleurs, Mons.

le Duc, je suis fermement convaincu que ces Individus en se dirigeant vers l'Ile de Terceira ne font que se prevaloir d'un droit qu'on ne saurait leur contester sans injustice, et que bien loin de violer la Neutralité de Sa Majesté Britannique, ils la respectent comme, ils doivent; en quittant, sans armes, et sur des Vaisseaux Marchands, le Territoire de Sa Majesté Britannique, pour se rendre dans une Ile dont Sa Majesté la Reine de Portugal est Souveraine *de facto* aussi bien que *de jure*.

Les dernières nouvelles que j'ai reçu de Terceira sont du 18 Decembre, et à cette époque, *il n'y avoit point dans cette Ile de Guerre Civile*, comme Votre Excellence le suppose, et elle se trouvoit *toute entière* sous la domination du Gouvernement qui la régit au nom de Sa Majesté la Reine Marie 2<sup>e</sup>.

Le Gouvernement Britannique pouvoit certainement objecter à ce que les Sujets d'une Souveraine, Amie et Alliée de Sa Majesté Britannique, se dirigeassent vers un territoire quelconque appartenant *de jure* à cette Souveraine, mais qui *de facto* se trouveroit sous la domination du Gouvernement que je considère comme Usurpateur; mais il me paroît évident que le Gouvernement de Sa Majesté Britannique ne peut, sans se dévier de la neutralité qu'il professe, les empêcher de retourner vers la Patrie qui leur reste après leur avoir refusé la permission de rester en Angleterre, à moins d'y être dispersés! Et certes la reconnaissance du titre et des droits de Sa Majesté Très Fidèle est de bien peu de valeur, si la même Puissance, qui les reconnoît, l'empêche d'envoyer ses Sujets dans un Pays qui se conserve sous sa domination mais qui peut avoir besoin d'eux pour sa défense.

Votre Excellence me rappelle ce qui a eu lieu il y a deux ans, à l'égard des Portugais Rebelles, que Sa Majesté Catholique, à la demande des Gouvernements de Portugal et d'Angleterre, a dispersés, sur des points éloignés de la Frontière de Portugal.

Je ne puis concevoir que les deux cas lui semblent pareils! Les Individus dont il s'agit avoient *effectué à différentes reprises* des irruptions à main armée en Portugal; ils avoient été protégés, armés, organisés en Espagne. Le Gouvernement Espagnol lui même (et si je ne me trompe Votre Excellence fit observer cette circonstance en Parlement) avoit disposés ses Troupes de manière à menacer le Portugal d'une agression, et d'après cela le secours des Troupes Britanniques que j'eus l'ordre de mon Gouvernement de solliciter étoit conforme à l'esprit des Traités que je réclamois, et le Gouvernement Espagnol avoit commis non seulement une déviation de la Neutralité, mais menacé d'une agression le Portugal, et donné une juste cause de Guerre.

Ainsi la demande qui fut subsequemment adressée à la Cour de Madrid étoit justifié par des actes déjà commis et devoit une garantie nécessaire pour en éviter la répétition. Comment seroit-il donc possible de citer un tel *précédent* pour l'appliquer au cas actuel, où il n'y a eu de la part des Portugais aucun abus de l'asyle qui leur a été accordé en Angleterre, ni aucun acte qu'on puisse leur imputer comme une violation de la neutralité de ce Pays? Et comment le Gouvernement Britannique peut-il se croire obligé à intervenir pour empêcher Sa Majesté Très Fidèle d'envoyer quelques uns de ses propres Troupes, qui se trouvent dans un Pays neutre, vers une Partie de ses États où elle est *actuellement reconnue* et *obéie* comme légitime Souveraine?

En adressant ces observations à Votre Excellence je ne fais que m'acquitter, à regret, d'un dernier et pénible devoir, d'autant plus nécessaire que Votre Excellence m'annonce une responsabilité qui je pense ne doit pas retomber sur moi.

Je terminerai en annonçant à Votre Excellence, que je remettrai la Copie de cette Lettre à Son Excellence Le Marquis de Barbacena qui, en sa qualité de Plénipotentiaire et de Délégué de l'Auguste Père et Tuteur de Sa Majesté la Reine de Portugal, se trouve je crois dans le cas de devoir correspondre *officiellement* avec le Ministère de Sa Majesté Britannique, sur les intérêts de Sa Majesté Très Fidèle.

J'ai l'honneur d'être, &c.

(Signed)

LE MARQUIS DE PALMELLA.

Son Excellence le Duc de Wellington,

&c. &c. &c.

(Translation.)

*The Marquis de Palmella to the Duke of Wellington.*

Monsieur le Duc,

London, January 2, 1829.

I HAD the honour to receive, the day before yesterday, in the evening, your Letter of the 30th of last month, and I will confess to your Excellency that the determination which it announces gives me great pain.

Your Excellency again insists upon the necessity of removing immediately to a distance from Plymouth, the Portuguese troops which are there assembled. I flatter myself that *at the moment at which I write*, four Transports, with Persons on board, which for the last fortnight have been ready to take their departure with the first fair wind, will have set sail.

I am engaged in preparing, with all the haste possible, those which are to follow; and I can assure your Excellency, that, from the moment when I declared to you that these Individuals should go away, sooner than accept the conditions which the British Government required for the continuance of their residence in England, that is to say, to be dispersed on different points indicated by your Excellency, and the Officers to be separated from the Soldiers, from that moment, I say, the preparations for their departure have been carried on without intermission.

Your Excellency must have been informed of these preparations, as well as of the impossibility of the Vessels quitting Plymouth, on account of the continuance of contrary winds; an obstacle which neither the orders of the British Government, nor all the good will on my part, can enable them to surmount.

The change of weather which has taken place since yesterday, induces me to believe that it will be too late to send them fresh Orders; besides, M. le Duc, I am firmly convinced that these Individuals, in directing their course to the Island of Terceira, do no more than avail themselves of the right which it is impossible to deny them without injustice, and that, far from violating the neutrality of His Britannic Majesty, they respect it as they ought, in quitting, without arms, and on board Merchant Vessels, the Territory of His Britannic Majesty, in order to proceed to an Island, of which Her Majesty the Queen of Portugal is Sovereign *de facto* as well as *de jure*.

The last intelligence which I have received from Terceira, is of the 18th December, and at that time *there was no Civil War in that Island*, as Your Excellency supposes, and it was *entirely* under the Dominion of the Government, which governs it in the name of Her Majesty, the Queen, Maria the 2nd.

The British Government may certainly object to the Subjects of a Sovereign, the Friend and Ally of His Britannic Majesty, going to any Territory belonging *de jure* to that Sovereign, but which may, *de facto*, be under the Dominion of a Government, which I consider as an Usurping Government; but it appears to me evident that the Government of His Britannic Majesty cannot, without deviating from the neutrality which it professes, prevent them from returning to the Country which remains *theirs*, after having refused them permission to remain in England, without being dispersed! And certainly the acknowledgment of the Title and Rights of Her Most Faithful Majesty is of very little value, if the same Power which acknowledges them, prevents her from sending Her Subjects to a Country which remains under Her dominions, but which may stand in need of them for its defence.

Your Excellency recalls to me what took place two years ago, with respect to the Portuguese Rebels, whom His Catholic Majesty, at the demand of the Governments of Portugal and England, dispersed on points at a distance from the Frontier of Portugal.

I cannot conceive that the two cases can appear to you parallel. The Individuals in question had made inroads, at different times, by force of arms, into Portugal: they had been protected, armed, and organized in



Spain. The Spanish Government itself (and if I am not mistaken, your Excellency made mention of this circumstance in Parliament) had disposed these Troops in a way to menace Portugal with an attack; and therefore the assistance of British Troops, which I was ordered by my Government to solicit, was conformable to the Treaties upon which I founded my claim; and the Spanish Government had not only been guilty of a breach of neutrality, but had menaced Portugal with an attack, and had given just cause of War.

Therefore, the demand, which was subsequently addressed to the Court of Madrid, was justified by the acts already committed, and became necessarily a guarantee against their repetition.

How then can it be possible to cite such a *precedent*, in order to apply it to the actual case, where there has been, on the part of the Portuguese, no abuse of the asylum which has been granted to them in England, nor any act which can be imputed to them as a violation of the Neutrality of the Country? And how can the British Government believe itself obliged to prevent Her Most Faithful Majesty from sending some of Her own Troops, which happen to be in a Neutral Country, to a part of Her Dominions where she is *actually acknowledged*, and *obeyed* as Legitimate Sovereign?

In addressing these observations to your Excellency, I only acquit myself, with regret, of a last and painful duty, so much the more necessary, as your Excellency attributes to me a responsibility which I think ought not to fall upon me.

I will conclude, by announcing to your Excellency, that I will transmit a Copy of this Letter to His Excellency the Marquis de Barbacena, who, in his capacity of Plenipotentiary and Delegate of the August Father and Guardian of Her Majesty the Queen of Portugal, finds it, I believe, to be his duty to correspond *officially* with the Government of His Britannic Majesty, on the interests of Her Most Faithful Majesty.

I have, &c

(Signed)

LE MARQUIS DE PALMELLA.

*His Excellency the Duke of Wellington.*

&c.      &c.      &c.

*Instructions to Captain Walpole, of His Majesty's Ship Ranger, together with his Report, respecting the Interruption of the Landing of certain Portuguese Troops, on the Island of Terceira.—1828, 1829.*

No. 38.

*Instructions to Captain Walpole, December 12th, 1828.*

*By the Commissioners, &c.*

WHEREAS a considerable number of Portuguese Soldiers, and other Foreigners, are about to sail, in Transports, from Plymouth or Falmouth, and it is supposed they intend making an attack on Terceira or other of the Western Islands; and, His Majesty having been pleased to command that a Naval Force should be immediately despatched to interrupt any such attempt, you are hereby required and directed to take the Ship and Sloop named in the margin under your command, and to proceed, with all practicable expedition, to Terceira; and, having ascertained that you have succeeded in reaching that Island before the Transports above alluded to, you will remain yourself at Angra, or Praya, or cruizing close to the Island, in the most advisable position for intercepting any Vessels arriving off it; and you will detach the other Ships as you shall deem best for preventing the aforesaid Force from reaching any of the other Islands.

In the event of the aforesaid Foreign Force approaching Terceira, or any of the other Islands, you are to cause whoever may be in command of it to be informed that you are instructed to prevent their landing at any of the Western Islands; and, should they persist, notwithstanding such warning, in hovering about, or in making any efforts to effect a landing, you are then to use force to drive them away from that Neighbourhood; and you will, in such case, keep sight of them, until you shall be convinced, by the course they may steer, and the distance they have proceeded, that they have no intention of returning to the Western Islands, or of proceeding to Madeira. You will, however, in this event, leave one of the Ships under your orders at the Western Islands, to act again, with regard to the said Foreigners, as before directed, in the event of their parting from you at Sea, and returning, or in the event of other detachments of a similar description, from England, afterwards making their appearance amongst the said Islands.

In the event of the Foreigners in question proceeding towards Madeira, (after your turning them from the Western Islands) you are to pursue the same conduct towards them, in first warning them against making any hostile effort there, and afterwards, if necessary, in using force to prevent it, as before directed with regard to the Western Islands.

In case of your proceeding, as above directed, to follow the Force in question, or any part of it, until you are satisfied that they do not intend to return to the Western Islands, or to attempt Madeira, you are, after quitting such Force, to return to the Western Islands, to rejoin the Ship you will have left there, and to assist her in securing the remaining objects before explained.

And you are to continue on this Service until you receive further Orders.

Given, &c. 12th of December, 1828.

(Signed)

G. COCKBURN.  
G. CLERK.

*Benjamin Clement, Esq.*

*Captain of His Majesty's Ship, Shannon.*

*(Transferred to the Captain of His Majesty's Ship, Ranger.)*

By Command of their Lordships.

(Signed)

J. W. CROKER.

*Report of Captain Walpole.**His Majesty's Ship, Ranger,**Off Terceira, 14th February, 1829.*

Sir,

I HAVE to acquaint you, for the information of the Lords Commissioners of the Admiralty, that, in the execution of their Lordships' Orders, dated the 12th of December last, I arrived off the Island of Terceira, with His Majesty's Ship under my command, (the *Nimrod* having parted company on the night of the 10th of January, in consequence of having lost a man overboard, and did not rejoin me again until the 15th,) and anchored at Angra, at 4 P.M., on the 13th of January, for the purpose of setting up the rigging, and to ascertain who were in authority there; when I found it to be in possession of the Constitutionalists, and governed by General Carbarra, who had about 500 Infantry, and 200 Artillery under his command; but that the Country was principally in possession of a Guerrilla Force, favourable to the Government of Don Miguel.

Having weighed from Angra on the 14th; on the 16th, while cruising off the east end of the Island, with the *Nimrod* in company, four sail of Vessels (two Ships and two Brigs) were discovered standing in for Port Praya, with the wind from the northward, which eventually proved to be a Portuguese Force, from Plymouth, of 652 Officers and Men, under the command of General Count Saldanha; and, in bringing them to, I lament to state a Portuguese was killed, and another wounded, by a shot from the *Ranger*, arising from the temerity of the Count, who, at point blank range, appeared determined, at all hazard, to push into Port Praya, with the Vessel on board of which he was embarked, and I was compelled, in order to prevent him, to direct a shot to be fired at her, not, however, until no attention had been paid to two fired over him, and I was apprehensive he would effect his object.

My proceedings with the Count, to compel him, in pursuance of their Lordships' Orders, to abandon his intention of disembarking at Terceira, will be best explained by our Correspondence, Copies of which I beg, therefore, to enclose for their Lordships perusal; and having, on the 24th January, escorted him as far as Latitude 43° 51' 0" N. and Longitude 14° 37' 0" W., I considered I had completely fulfilled their Lordships' Instructions to me on that head, and, intending to resume my Station, off Terceira, on the morning of that day, I addressed a Letter to the Count, in order to elicit from him the place of his destination, as we were not 500 miles from Scilly, with a strong breeze at S.W., as I was very desirous to forward an account of my proceedings to their Lordships, by a Lieutenant of the Navy, in command of one of the four Vessels, that their Lordships might be in possession of them as early as possible, to meet those exaggerated statements which I was inclined to think might be published to the world; but, as will appear by the Count's reply, I was prevented, and therefore determined, as I had fully executed their Lordships' Orders, to accompany him no further, which I apprized him of by Letter, and immediately made sail, but did not lose sight of him until the evening, and I was convinced he was still steering a channel course, with the wind westerly.

I have not, until this day, been able to reach Terceira again, in consequence of adverse winds, nor have I had an opportunity of communicating with their Lordships; but I was fortunate this morning, in preventing the *Trusty* Schooner of London, with about 40 Portuguese Officers and Men on board, from getting into Port Praya, and I have supplied her with provisions and water, to take her elsewhere.

His Majesty's Ships *Shannon* and *Pallas* are now in sight to leeward, and I shall lose no time in joining the former, and shall deliver over to Captain Clement an account of my proceedings, and I hope they will meet the approbation of their Lordships, since leaving Portsmouth, on the 3rd ultimo.

I beg also to enclose a Log of my proceedings, a weekly account of the state and condition of the *Ranger*, and her defects.

I have, &c.

(Signed) WILLIAM WALPOLE, Captain.

*The Right Hon. William Croker,*

&c. &c. &c.

*Sub-Enclosure A in No. 39.*

*Captain Walpole to Count Saldanha.*

*His Britannic Majesty's Ship Ranger, off Port Praya,*  
16th Jan. 1829.

SIR,

I HAVE to request you will be pleased to acquaint me with your object in appearing off here with the Force under your Command.

I have, &c.

*Count Saldanha.*

(Signed)

WM. WALPOLE, Captain.

*Sub-Enclosure B in No. 39.*

*Count Saldanha to Captain Walpole.*

SIR,

*On board the Susan, 16th Jan. 1829.*

MY object in appearing here is to fulfil the Orders of Her Majesty the Queen of Portugal, and which prescribe me to conduct unarmed, without any hostile appearance, to the Isle of Terceira, the men that are on board the four Vessels in sight, which Island has never ceased to obey and acknowledge, as its Legitimate Sovereign, Her Faithful Majesty Donna Maria II. As a faithful Subject and Soldier, I think it unnecessary to assure you, that I am determined to fulfil my duty at all peril.

(Signed)

CONDE DE SALDANHA.

*Captain Walpole.*

*Sub-Enclosure C in No. 39.*

*Captain Walpole to Count Saldanha.*

*His Britannic Majesty's Ship Ranger, off Port Praya,*  
16th Jan. 1829.

SIR,

I HAVE to acknowledge the receipt of your Letter of this date, and to inform you that I likewise have an imperious duty to perform, and that in pursuance of Instructions from my Government, I cannot allow you, or any part of the Force under your Command, to land here, or on any of the Western Islands, or Azores. I have, therefore, to desire you will not attempt a landing, or I shall be compelled to use the Force I have to prevent it; you must not, therefore, continue in their Neighbourhood after this Notification.

I have, &c.

*Count Saldanha.*

(Signed)

WM. WALPOLE, Captain.

*Sub-Enclosure D in No. 39.*

*Count Saldanha to Captain Walpole.*

*On board the Brig Susan, off Port Praya,  
16th Jan. 1829.*

SIR,

THE imperious duty you have to perform, can be no other than the Orders of His Britannic Majesty, your Sovereign; exactly of the same nature are the Orders and Instructions I have to put in execution. It is my Sovereign that positively determines me to disembark at Terceira; I am determined to perform my duty, and am ready to lose my life to see every one of the Soldiers of Her Faithful Majesty on board Neutral Vessels, unarmed, and only depending upon the right of Nations, in search of a part of the Portuguese Dominions that never obeyed the Usurper, but constantly have acknowledged the Sovereignty of Her Most Faithful Majesty Donna Maria II. I am determined, I say, to see every one of them perish in the fulfilment of my duty. The blood of the most Ancient Allies of His Britannic Majesty has already been spilt; a man has been killed, and another severely wounded, on board this Vessel; a great deal more may flow; you may again direct your fire against us; you may sink us, but you may be assured that left to myself, and until not made Prisoner, and sunk, Sir, under the batteries of Villa de Praya, I will do every thing in my power to fulfil my imperious duty: allow me, Sir, to observe to you, that you are going to unload your artillery against 500 Portuguese unarmed, on board English and Russian Vessels: Europe, and your own Country particularly, will be still more astonished, than the Subjects of Her Most Faithful Majesty themselves; I beg you to consider also that we have not come to allow or commit any aggression; we are completely unarmed, to join our Brethren in a spot that never disowned the legitimate Authority of the Queen my Sovereign; I consider myself obliged to declare that we have no provisions, and that, even in case my duty would allow it, we should be obliged to receive provisions. You have, therefore, in your power two decisive weapons to destroy us with; but the world will think it marvellous, and the Portuguese will see with indescribable sorrow, employed against them in their destruction, without a motive, *without* reason, in the most profound peace and harmony, when Her Most Faithful Majesty has so lately been received at Windsor Castle by His Majesty George the Fourth, as the Legitimate Queen of Portugal, those same arms that so often fought together with them the common enemy in so many glorious battles.

Whatever your determination will be, you may be certain that I am going to make the most solemn Protest, that will be made public to Europe, by the one that will survive me.

(Signed) CONDE DE SALDANHA.

*Captain Walpole,*

*Sub-Enclosure E. in No. 39.*

*Captain Walpole to Count Saldanha.*

*His Britannic Majesty's Ship Ranger, off Port Praya,  
16th January, 1829.*

SIR,

IN consequence of your verbal answer to my last communication, I have now only to inform you, that if you do not make sail before three o'clock this afternoon, and quit the Neighbourhood of these Islands, I shall be obliged, and am determined to use force to compel you to do so.

I have, &c.

*Count Saldanha.*

(Signed) WM. WALPOLE, Captain.

*Sub-Enclosure F in No. 39.**Count Saldanha to Captain Walpole.**On Board the Susan, off Villa de Praya,  
16th January, 1829.*

SIR,

IN consequence of the verbal communication made to me by Captain Radford, I have only to add to my other Official Letters, that I consider myself your Prisoner, and will follow your Vessels wherever you will lead us; but again, before that, we have neither provisions or water.

(Signed) CONDE DE SALDANHA.

*Captain Walpole,**Sub-Enclosure G in No. 39.**Count Saldanha to Captain Walpole.*

SIR,

I AM very sorry that you have only answered verbally to my Communications; Captain Radford has now communicated to me your order to sail immediately, steering S.W. and S.; if you consider me your Prisoner I will do what you order me, but you must furnish me provisions and water, and an Order in Writing to follow you, because I am answerable for my conduct, and I think I am entitled to respect from an English Navy Officer.

If I should have found it impossible, by any other course, to land at Terceira, my determination was to go back either to France or England; the intimation you now have made from your Vessel prevents my writing any more, and sending the Protest I am getting ready.

*Captain Walpole.*

(Signed) CONDE DE SALDANHA.

*Sub-Enclosure H in No. 39.**Captain Walpole to Count Saldanha.**His Britannic Majesty's Ship Ranger, off Terceira,  
16th January, 1829.*

SIR,

MY object in communicating with you verbally, was for the sake of expedition; I have now only to add, to what I have already stated to you, that you are at liberty to proceed *immediately* either to France or England, or wherever else you choose, so that you quit the Neighbourhood of these Islands, and those of the Azores.

I have, &amp;c.

(Signed) WM. WALPOLE, *Captain.**Count Saldanha.**Sub-Enclosure I in No. 39.**Count Saldanha to Captain Walpole.**On board of the Susan, off Villa de Praya,  
16th January, 1829.*

SIR,

I HAVE just received your communication, in which you do not mention that you consider me a prisoner of war, and you only answer what I accidentally mentioned was my intention to do, in case of being prevented by other motives from landing at Terceira, but if you consider me at liberty, I must execute my orders; if not, I refer myself to my first Communication, viz. "that only by force I will not put in execution the orders of my Queen"

You have just fired again against us, and again I tell you that if I am not a prisoner of war, I will follow my course according to my Instructions.

(Signed) CONDE DE SALDANHA.

Captain Walpole.

*Sub-Enclosure J in No. 39.*

*Captain Walpole to Count Saldanha.*

*His Britannic Majesty's Ship Ranger,  
16th January, 1829.*

SIR,

IN answer to your Communication, delivered by yourself, I can only refer you to my former declarations, and must again positively assure you, that if you still persist in hovering about these Islands, it is my duty, and firm determination to carry those measures you are already in possession of into full effect; I therefore trust you will see the wisdom of quitting this neighbourhood.

I have the honour to be, &c.

Count Saldanha.

(Signed) WM. WALPOLE, Captain.

N.B. The verbal communications referred to in these letters did not differ in substance from their contents.

(Signed) WM. WALPOLE, Captain.

*Sub-Enclosure K in No. 39.*

*Count Saldanha to Captain Walpole.*

*On board the Susan, under sail, at latitude N. 39° 13',  
longitude W. London 26° 1', the 17th January, 1829.*

SIR,

ACCORDINGLY to my Official Communications of yesterday, I have the honour to transmit to you the enclosed list of the Portuguese on board the four Transports under your escort.

The Captain of this vessel not being able to tell me positively the reason why we were fired at last night more than once, although he thinks it was in consequence of taking in top-gallant sails, to prevent any further mischief, I beg leave to ask the cause, that I may give the necessary directions in the intelligence that the general and only order I gave was to follow your vessel in its course and movements.

I have further the honour to transmit the enclosed Document, which I consider absolutely necessary, and to which I referred in one of my communications of yesterday: I was getting ready with all speed.

I have the honour to be, &c.

Captain Walpole.

(Signed) CONDE DE SALDANHA.

*Sub-Enclosure L in No. 39.*

*Count Saldanha to Captain Walpole.*

*On board the Susan, under sail,  
January 19th, 1829, at 10 o'clock.*

SIR,

THE inclosed Papers have been sealed since the 17th, in the morning, but the rough sea and the strong winds have prevented me the honour of transmitting them to you.

As our situation is more embarrassing since the *Nimrod* left steering ahead of us on the 17th, at half-past three in the afternoon, and as we were fired at again the same night, I beg once more you will have the goodness to direct me your orders.

I have the honour to be, &c.

Captain Walpole.

(Signed) CONDE DE SALDANHA.

*Sub-Enclosure M in No. 39.*

*Captain Walpole to Count Saldanha.*

*His Britannic Majesty's Ship Ranger,  
at Sea, 19th January 1829.*

SIR,

I HAVE the honour to acknowledge the receipt of your Letters and Parcel; and in accordance with what I have already stated to you, I have only to acquaint you, that you are at liberty to proceed wherever you please, provided you do not return to Terceira, or go to the Azores. With reference to the Guns fired on the occasions you mention, they were merely signal ones, to point out the necessity of your Vessels keeping together, as from the rockets fired on each night in question, and two of your Vessels appearing to have altered their course, I was apprehensive they might part company.

Your Protest shall be forwarded to my Government by the first opportunity; and as it is my intention to escort you to a certain distance, I beg you will shape your own course, keep your Vessels together, and I trust the progress towards your destination *will not* be interrupted by any further Correspondence.

I have the honour to be, &c.

*Count Saldanha.*

(Signed) WM. WALPOLE, *Captain.*

*Sub-Enclosure N in No. 39.*

*Captain Walpole to Count Saldanha.*

*His Britannic Majesty's Ship Ranger,  
at Sea, 24th January, 1829.*

SIR,

I SHALL feel obliged by your informing me whether it is your intention to proceed to England, as I have Despatches from the Vice Consul at Terceira, as well as myself, to forward to the British Government.

I have the honour to be, &c.

*Count Saldanha.*

(Signed) WM. WALPOLE, *Captain.*

*Sub-Enclosure O in No. 39.*

*Count Saldanha to Captain Walpole.*

*On Board the Suzana, at Sea,  
24th January, 1829.*

SIR,

I AM astonished at your question. What, Sir? you came to Terceira to ~~make~~ us prisoners; you have escorted us these eight days; you have prevented me fulfilling my orders; you have endangered the lives of so many faithful subjects of the most ancient Allies of your Sovereign; you have made us consume our scanty provisions; you have positively obliged me not to separate my Vessels; you have used over me the discretion of a Conqueror; and at the end of all this, you ask me where I am going? I do not know, Sir, where to; the only thing I know, is, that I am going wherever you will lead us, according to my positive assertions in every one of my Official Letters.

I have, &c.

(Signed) CONDE DE SALDANHA.

*Captain Walpole.*

*Sub-Enclosure P in No. 39.*

*Captain Walpole to Count Saldanha.*

*His Britannic Majesty's Ship Ranger,  
at Sea, 24th January, 1829.—Noon.*

SIR,

I AM both surprised and confounded at the contents of your Letter just



received ; after my repeatedly declaring to you, in my Correspondence, that you were at liberty to pursue your own course and discretion.

I have now to inform you, that your conduct has determined me to escort you no further.

*Count Saldanha.*

I have, &c.  
(Signed) WM. WALPOLE, *Captain.*



**Class A.**

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**CORRESPONDENCE**

WITH THE

**BRITISH COMMISSIONERS,**

AT

**SIERRA LEONE, THE HAVANA,**

**RIO DE JANEIRO, AND SURINAM,**

RELATIVE TO

**THE SLAVE TRADE.**

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1828.

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*Presented to both Houses of Parliament, by Command of His Majesty,*  
1829.

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# Class A.

## CORRESPONDENCE

WITH THE.

## BRITISH COMMISSIONERS.

### SIERRA LEONE. (General.)

No. 1.

*The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, January 15, 1828*

I HEREWITH transmit to you four Instruments, bearing date the 15th day of January 1828, by which His Majesty was pleased to appoint George Jackson, Esq. to be His Majesty's Commissary Judge, and William Smith, Esq. to be His Majesty's Commissioner of Arbitration, and Joseph Reffell, Esq. to be Secretary or Registrar to the Mixed British and Foreign Commissions, which, under the Treaties and Conventions, concluded with *Spain, Portugal, The Netherlands, and Brazil*, and pursuant to the several Acts of Parliament for carrying the said Treaties and Conventions into effect, is to be established, for the prevention of illegal Slave-trade, at one of His Majesty's Possessions or Settlements on the Coast of Africa.

You will, at an early opportunity, after the receipt of this Despatch, take, in due form, the Oath prescribed to you by the enclosed Instruments, and you will administer to Mr. Joseph Reffell the Oath prescribed to be taken by him, prior to the entering upon your further respective duties, in the Characters assigned to you in His Majesty's Commission of Appointment.

You will announce these Appointments to the Foreign Members of the Mixed Commission destined to act with you under the Treaties above-mentioned.

You will follow strictly the line pointed out in the Instructions, which have heretofore been given by His Majesty's Secretary of State to His Majesty's Commissioners at Sierra Leone.

Further Instructions will, by His Majesty's Command, be transmitted to you, according as it shall appear that such Instructions shall be necessary for your guidance.

I am, &c.

*His Majesty's Commissioners.*

(Signed) DUDLEY.

B

## No. 2.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 10.)*

MY LORD,

Sierra Leone, January 5, 1828.

WE have the honour to forward Abstracts of the Proceedings of the past Year under the Mixed Commissions established in this Colony.

The number of Cases adjudicated under the British and *Spanish* Mixed Commission was 4, which were all deemed to be Cases for Condemnation;—the number of Slaves emancipated was 482.

The number of Cases adjudicated under the British and *Portuguese* Mixed Commission was 21, all of which were Cases for Condemnation;—the number of Slaves emancipated was 2,128.

There was only one Case for adjudication under the British and *Netherland* Mixed Court of Justice, which was deemed a Case for Condemnation;—the number of Slaves emancipated was 251.

We beg leave to enclose a List of Cases adjudicated under the Mixed Commission, to this date. Your Lordship will perceive that the number of Cases adjudged during the past Year was 26,—the number of Slaves emancipated was 2,861,—the total number of Cases adjudged since the establishment of the Mixed Commission is 106—and the total number of Slaves emancipated, up to the close of the Year 1827, is 12,187.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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First Enclosure in No. 2.

*Abstract of Proceedings under the British and Spanish Mixed Commission at Sierra Leone, from the 1st of January 1827 to the 1st January 1828.*

(No. 1.)—Spanish Schooner "*Paulita*." This Schooner, Antonio Ferrera, Master, cleared out from the Havannah in February 1826, furnished with the usual Papers for a licit Trading-voyage to the Islands of Princes and St. Thomas. She was captured on the 6th of December following, off Lagos, in Latitude 5. 4. North, with 221 Slaves on board, by the Boats of His Majesty's Ship "*Maidstone*," in charge of Lieutenant Tucker; 32 of this number died between the period of Capture and Condemnation; no Claim having been made in this Case, the Court met for its adjudication on the 25th of January 1827, when Sentence of Condemnation was decreed against the "*Paulita*," and the surviving 189 Slaves emancipated.

(No. 2.)—" *De Snelheid's* " Slaves.—The 23 Slaves taken on board the Dutch Vessel "*De Snelheid*," not having been considered by the Court as Dutch property were not condemned with the Vessel, they were, therefore, libelled on the 13th of February 1827, in the British and Spanish Court of Mixed Commission, and on its being clearly proved that they were purchased by the Spanish Crew, after her seizure by the Spanish armed Ship the "*Atalanta*," Sentence of Emancipation was decreed upon them, on the 16th of March, as Spanish property taken on board the *Netherland* Brigantine "*De Snelheid*," whilst in the possession of the Spaniards, by His Majesty's Ship "*Brazen*," Captain George Wickens Willes.

(No. 3.)—On the 31st of January 1827, the Boats of His Majesty's Ship "*North Star*," captured the Spanish Schooner "*Emelia*" Manoel Prendez, Master, in the River Bonny, with 282 Slaves on board, 107 of whom died between Capture and Condemnation, owing to the usual diseases in such cases, arising from the crowded state of the Vessel. The Court adjudicated this Vessel on the 16th of March, and no Claim having been made, Sentence of Condemnation was passed upon her, and her surviving Slaves decreed to be emancipated.

(No. 4.) The Spanish Schooner "*Fama*," Joze Miguel, Master, was captured in the Old Calabar, on the 6th of February 1827, by the Boats of His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander, with 100 Slaves on board, 5 of whom died on the passage up. This Case being clearly one of Condemnation, the Court accordingly passed that Sentence on the "*Fama*" on the 16th of March 1827, and decreed the surviving 95 Slaves to be emancipated.

(Signed) JOSH. REFFELL.  
WM. SMITH.

## Second Enclosure in No. 2.

*Abstract of Proceedings under the British and Portuguese Mixed Commission at Sierra Leone, from the 1st of January 1827 to the 1st January 1828.*

(No. 1.)—THE Brazilian Brigantine "*Hiroina*" of Bahia, commanded by Michael Antonio Netto, and furnished with an Imperial Passport, obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil, was detained off Lagos, in the Bight of Benin, in 6. 10. North Latitude, by His Majesty's Ship "Maidstone," Commodore Bullen, C. B., Commander. No Slaves were found on board, but the greater part of her Cargo had been landed to the Northward of the Line, at a Place called Judo, (where she had been lying at anchor 68 days), in barter for a Cargo of Slaves, and upon which ground she was seized by His Majesty's Ship. Claim was made for the "*Hiroina*" on behalf of the Owners, but the Court considered the ground of capture just and legal agreeably to the true intent and meaning of the Treaty of the 22d of January 1815, and Additional Convention thereto, dated the 28th of July 1817, between Great Britain and Portugal, and therefore Sentence of Condemnation was passed upon her, on the 24th of January 1827, and her Tackle, Apparel, and Furniture, as good and lawful Prize to His Majesty's Ship "Maidstone."

(No. 2.)—The Brazilian Schooner "*Eclipse*" was detained on the 6th of January 1827, by His Majesty's Ship "North Star," Septimius Arabin, Esq. Commander, off Whydah, in about Latitude 6. 20. North, and Longitude 2. 5. West, under Brazilian Colours. No Slaves were found on board, but she was captured on the same grounds as the preceding Vessel, the "*Hiroina*," for having landed the greater part of her Cargo to the Northward of the Line to trade for Slaves, in violation of the Treaty between Great Britain and Portugal, and of her Passport, which authorized a Voyage to Molembó to take in her Slaves, and irregularly allowing her to touch at Princes and St. Thomas.—The Court, therefore, decreed Sentence of Condemnation upon her, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board, on the 16th of March 1827, as good and lawful Prize to His Majesty's Ship "North Star." Claim was made for the "*Eclipse*" on behalf of the Owners.

(No. 3.)—The Brazilian Ship "*Invincible*," José Antonio de Castro Guimaraes, Master, was captured on the 21st of December 1826, in the River Camaróons by the Boats of His Majesty's Ship "Esk," W. J. Purchas, Esq. Commander, with 440 Slaves on board, 190 of whom died between the period of Capture and Condemnation, owing to the very crowded state of the Vessel and the lengthened Passage. No Claim being made in this Case, the Court sat for adjudication on the 16th of March, when Sentence of Condemnation was passed upon her, and her surviving Slaves decreed to be emancipated.

(No. 4.)—The Brazilian Schooner "*Venus*," Jacinto Pressa, Master, was captured in or about Latitude 2. 20. North, and Longitude 4. 20. East, by His Majesty's Ship "Esk," W. J. Purchas, Esq. Commander, with 191 Slaves on board, 3 of whom died on the passage to Sierra Leone. No Claim having been made, and it being clearly proved that her Slaves were taken in to the North of the Equator, the Court passed Sentence of Condemnation on her, and her Tackle, Apparel, and Furniture, on the 9th of April 1827, and emancipated the surviving Slaves.

(No. 5.)—The Brazilian Schooner "*Dos Amigos*," Jozé Joaquim Ladislao, Master, was seized, on the 8th day of February last, in or about Latitude 1. 12. North, Longitude 8. 20. East, by His Majesty's Ship "Esk," W. J. Purchas, Esq. Commander, with 317 Slaves on board, taken in at Badagry, in 6. 20. North Latitude, 9 of whom, only, died on the passage to Sierra Leone. The illegality of the Voyage having been clearly proved, the Court passed Sentence of Condemnation on the "*Dos Amigos*," her Tackle, Apparel, and Furniture, on the 9th of April 1827, and decreed the emancipation of the surviving 308 Slaves.

(No. 6.)—The Brazilian Brigantine "*Trajano*," sailed from Bahia, furnished with an Imperial Passport to take 545 Slaves from Molembó, and obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire, in defiance of which she was boarded to the Northward of the Line, by His Majesty's Ship "North Star," on the 2d of March 1827, and 11 days afterwards was captured by His Majesty's Ship "Maidstone," Commodore Bullen, C. B. Commander, at anchor, off the noted Slave Port, Whydah, in Latitude 6. 14. North; and the Master, as Claimant, having failed to bring forward proof that a good and sufficient cause existed for his coming to the Northward of the Equator, in direct opposition to his Imperial Passport, and in violation of the existing Treaties between Great Britain and Portugal, the Court passed Sentence of Condemnation on her, on the 30th of April 1827, together with her Cargo, Tackle, Apparel, and Furniture, for a violation of her Imperial Passport, in being found to the Northward of the Line, and for being engaged in the Slave-trade, against the 1st Article of the Treaty, and 2d Article of the Additional Convention thereto.

(No. 7.)—The Brazilian Schooner "*Tenterdora*," Innocencio dos Santos Lopez, Master, left Bahia on the 12th of November 1826, furnished with an Imperial Passport, authorizing her to take 518 Slaves from Molembó, and irregularly allowing her to touch at the Coast of Guinea, St. Thomas and Princes Islands, with the usual prohibition to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the subjects of the Empire. She was captured on the 14th of March 1827, by His Majesty's Ship "Maidstone," Commodore Charles Bullen, C. B. Commander, at anchor off Judo, in Latitude 5. 19. North, with part of her Cargo landed, at

which Place, and its immediate Neighbourhood, she had been lying for 84 days. The Defence set up by the Claimant in this Case, was the permission given her by her Passport to touch at the Coast of Guinea, and the necessity she was under to avail herself of that permission to procure provisions and water. The Court heard this Case on the 30th of April 1827, when they gave it as their opinion, that the permission contained in the Passport being illegal, no advantage could be taken of it as an excuse for being at anchor to the Northward of the Line, and, secondly, that the Claimant had not proved the necessity for his coming to the Northward of the Line to procure provisions and water, and remaining there 84 days, with a great part of the "*Tenterdora's*" Cargo landed, and accordingly condemned the Vessel, her Cargo, Tackle, Apparel, and Furniture, as good and lawful Prize, for being engaged in the Slave-trade to the Northward of the Equator.

(No. 8.)—The *Brazilian* Schooner "*Carlota*," Joze Francisco da Costa, Master, was detained on the 14th of March, at anchor off Badagry, in 6. 12. North Latitude, by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B. Commander, with a part of her Cargo landed at that Port. She was furnished with an Imperial Passport to carry Slaves from Molembó, and obligatory on her to enter solely such Ports on the Coast of Africa where the Slave-trade is permitted to the Subjects of the Empire. The Defence made by the Claimant was the same as in the Cases of the "*Traja-o*" and "*Tenterdora*," the want of water and provisions obliging her to come to the Northward of the Line. But no proof having been produced of such necessity existing, or for her having been at anchor at Badagry, above 6 Weeks, with a part of her Cargo landed; the Court passed Sentence of Condemnation on the 30th of April 1827, on the Schooner "*Carlota*," her Cargo, Tackle, Apparel, and Furniture, on the same grounds as in those Cases.

(No. 9.)—The *Brazilian* Brig "*Venturosa*," sailed from Bahia on the 6th of November 1826, with an Imperial Passport, authorizing her to take a Cargo of Slaves from Molembó, and irregularly allowing her to call at the Islands of St. Thomas and Princes, with the usual prohibitory clause, not to touch at Ports where the Slave-trade is forbidden to the Subjects of the Empire.

It appears that she proceeded direct to Badagry, in 6. 12. North Latitude, under the pretence of want of fresh water and provisions, where she landed a large part of her cargo, and remained at least 80 days, and was finally captured at anchor there, on the 14th of March 1827, by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B. Commander. The Court met to adjudicate the "*Venturosa*" on the 30th of April, when the same defence was set up as in the Case of the "*Tenterdora*," to which this Case bears a strong analogy. The Court condemned her, with her Cargo, Tackle, Apparel, and Furniture, on the like grounds of the violation of the Treaty between Great Britain and *Portugal*, and the Additional Convention thereto.

(No. 10.)—The *Brazilian* Brigantine "*Providencia*," Joao Pedro de Sousa, Master, sailed from Bahia on the 15th of December 1826, furnished with an Imperial Passport, authorizing her to take in her Slaves at Molembó, and irregularly giving her permission to touch at Sierra Leone, the Coast of Guinea, St. Thomas and Princes' Islands; yet making it obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire. She was seized on the 16th of March 1827, by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B. Commander, off Lagos, in Latitude 6. 23. North, with the greater part of her Cargo landed. The features of this Case being so similar to the preceding ones of the "*Tenterdora*" and "*Venturosa*," the Court, on the same principle, condemned her, and her Tackle, Apparel, and Furniture, as well as the Goods, Wares, and Merchandize laden on board, as good and lawful Prize to His Majesty's Ship "*Maidstone*," on the 30th of April 1827.

(No. 11.)—The *Brazilian* Schooner "*Independencia*," Jacinto Antonio Pereira Carneiro, Master, left Bahia in January 1827, with an Imperial Passport to take in Slaves at Molembó. She was seized at anchor in the Roadstead of Accra, by His Majesty's Brig "*Conflict*," for an infraction of the Treaties, as well as of her Imperial Passport, which is an integral part of them. The Defence set up in this Case was, that the Schooner sprung a leak, which obliged her to bear to the nearest Port to the Northward of the Equator for assistance, as well as to procure provisions and water. The Court, after a very minute and impartial investigation, having satisfied itself of the falsity of the grounds of defence, pronounced Sentence of Condemnation against the Schooner "*Independencia*," her Tackle, Apparel, and Furniture; and the Goods, Wares, and Merchandize found on board at the time of Capture, on the 15th day of May 1827.

(No. 12.)—The *Brazilian* Brigantine "*Conceição de Marie*," Joao Pinto de Sousa, Master, was fitted out and sailed from Bahia, with an Imperial Passport to take in Slaves at Molembó. She was captured off Whydah, in Latitude 6. 10. North, by His Majesty's Ship "*North Star*," Septimius Arabin, Esquire, Commander, with 232 Slaves on board, and arrived at Sierra Leone on the 15th of April; and on the 15th of May the Court passed Sentence of Condemnation on her, and decreed her surviving Slaves, 198 in number, to be emancipated, 34 having died between the time of Capture and Adjudication.

(No. 13.)—The *Brazilian* Schooner "*Trez Amigos*," Manoel Francisco dos Santos Pires, Master, was fitted out from Rio Janeiro, on a Commercial Voyage to Angola, and furnished with a Passport to that effect. Having discharged her cargo at Angola, she cleared from that Port for the Island of St. Jago, but distress on her Voyage obliged her to put into this Harbour, where having lain some days, and procured provisions, she departed on her Voyage to St. Jago. Information having been given, after her departure, that she had 3 female Slaves on board, concealed, Lieutenant Crofton, commanding the Tender of the "*North Star*," then lying in the Harbour, went in chase, and succeeded, finally, in coming up with her, when, after a strict search, the 3 female Slaves alluded to, were found concealed under the caboose. A claim was

made, and defended on the ground that the 3 Slaves found on board were Domestic, but no Certificate for them as such, being produced, as required by the Treaty, their concealment during the time she lay in this Harbour, and also at the time of Capture, were circumstances which clearly established the illicit transaction. The Court, therefore, on the 15th of May, condemned the "*Trez Amigos*," her Tackle, Apparel, and Furniture, and emancipated the 3 Slaves.

(No. 14.)—The *Brazilian* Sloop "*Conceição Paquete do Rio*," Manoel Francisco de Silva Araujo, Master, from Pernambuco, with an Imperial Passport to take in Slaves at Molembo, and with leave to call at the Islands of Princes and St. Thomas, on the Coast of Africa, was captured by His Majesty's Ship "*Maidstone*," Commodore Charles Bullen, C. B., Commander, on the 22d of March 1827, off the Mouth of the River Benin, in Latitude 5. 44. North, waiting the rise of tide to go into the River. The Defence set up was the same as in the Case of the *Brazilian* Schooner "*Independencia*,"—that her having sprung a leak obliged her to steer for the nearest Port, and thus to have been found to the Northward of the Line,—as well as the usual excuse of being in want of provisions and water. The same careful survey was ordered as in that Case, and the result of which proving that no such leak existed, that she had on board a sufficient supply of provisions and water at the time of Capture, and, consequently, that her object was an illicit Traffick, the Court passed Sentence of Condemnation on the Sloop, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board the same, on the 15th of May 1827.

(No. 15.)—The *Brazilian* Brigantine "*Creola*," Manoel Jozé de Sousa Guimaraes, Master, furnished with an Imperial Passport from Bahia to take in a cargo of Slaves at Cabinda and Molembo, was captured by His Majesty's Ship "*Maidstone*," Commodore Bullen, C. B., Commander, between the Island of Fernando Po and the Camaroons, in about Latitude 4. 6. North, with 308 Slaves on board, 19 of whom died on the passage up. The proof of the illicit Traffick having been clearly established, the Court passed Sentence of Condemnation on the "*Creola*," her Tackle, Apparel, and Furniture, and emancipated the surviving Slaves, 289 in number, on the 9th of June 1827.

(No. 16.)—The *Brazilian* Brig "*Silveirinha*," Bernadino Joze Ferreira, Master, furnished with an Imperial Passport to take in a Cargo of Slaves at Molembo, was fitted out at Pernambuco, and captured by His Majesty's Ship "*North Star*," Captain Septimius Arabin, in the Calabar River, with 266 Slaves on board. She arrived here after a tedious passage of 11 Weeks, 57 of the Slaves having died after Capture. This being clearly a Case for Condemnation, the Court accordingly passed that Sentence, on the 19th of June, on the "*Silveirinha*," her Tackle, Apparel, and Furniture, and emancipated the surviving Slaves.

(No. 17.)—The *Brazilian* Brig "*Bahia*," commanded by Baptista de Carvalho, was fitted out at Bahia, furnished with an Imperial Passport to take in Slaves at Molembo, and obligatory on her to enter solely such Ports where the Slave-trade is permitted to the Subjects of the Empire, in direct opposition to which, she came to the Northward of the Line, to a noted Slave haunt, where she landed a part of her Cargo under the pretence of want of water and provisions; but it having been clearly proved to the Court that she had on board an abundant supply of both, and that there existed no necessity for this deviation from her Passport, Sentence of Condemnation was passed against her, her Tackle, Apparel, and Furniture, as well as the Goods, Wares, and Merchandize laden on board, on the 19th of June 1827.

(No. 18.)—The *Brazilian* Brigantine "*Copioba*," Joaquim de Araujo Braga, Master, cleared from Bahia, in February 1827, for a Slaving-voyage to Molembo, furnished with an Imperial Passport for that Port, with leave to call at the Coast of Guinea, and under the usual obligation to enter such Ports only, where the Slave-trade is permitted to the Brazilians. She was captured at anchor, in the Roads of Otoo, about 9 miles Eastward of Cape St. Paul, by His Majesty's Brig "*Clinker*," Lieutenant George William Matson, Commander, with her Derik Tackle rigged, and a considerable part of her cargo landed. The like plea of want of water and provisions, and repairs to her Masts and Sails was made to account for her being found to the Northward of the Equator, as in several of the preceding Cases, but no proof of any necessity for such deviation from the "*Copioba's*" declared Voyage, and from the tenour of her Imperial Passport, being offered, the Court pronounced her to be a lawful Prize to His Majesty's Brig "*Clinker*," and passed Sentence accordingly, on the 20th of July 1827.

(No. 19.)—The *Portuguese* Schooner "*Toninha*," Clemente Joze Alvez Martinez, Master, and owned by Manoel Antonio Martinez, of Bonavista, was detained, on the 18th of June 1827, by Captain Septimius Arabin, commanding His Majesty's Ship "*North Star*" for having 65 Slaves on board, covered by false Passports, calling them Domestic Slaves, and allowing their removal from Bissao as such, accompanying their Masters, Caetano Joze Nozzolini, and Pedro Benjamin Duceros.

The "*Toninha*" unfortunately got foul of the Steam-vessel the "*African*," sailing in company with the "*North Star*," whilst endeavouring to take her in tow, and was lost, the Slaves and Crew being saved.

On the Examination of the alleged Domestic Slaves, as well as from the general Evidence, it clearly appeared that they actually were Slaves, none answering to their designations on the Passports, which, however, were altogether informal Documents, and doubtless surreptitiously obtained.

The Court, therefore, decreed that the "*Toninha*" was engaged in the illicit Traffick in Slaves, and accordingly passed Sentence of Condemnation on her, on the 21st of July 1827, and emancipated the Slaves brought up by the "*North Star*," and which had been taken out of her.

(No. 20.)—The Brazilian Brig "*Henriqueta*," Juan Cardozo dos Santos, Master, was captured by His Majesty's Ship "*Sybilie*," Francis Augustus Collier, C. B. Commander, in Latitude 5. 26. North, Longitude 3. 40. East, with 569 Slaves on board, 21 of whom died on the passage up.

This Vessel was furnished with the usual Imperial Passport to take in a Cargo of Slaves at Molembó, she steered, however, direct for Lagos, and on the 26th day, after leaving Bahia, was taken on her return there with a full Cargo of Slaves on board. She was accordingly condemned on the 29th of October 1827, with her Tackle, Apparel, and Furniture, as lawful Prize to His Majesty's Ship "*Sybilie*," and the surviving Slaves emancipated.

(No. 21.)—The Brazilian Schooner "*Dianna*," furnished with an Imperial Passport to take a Cargo of Slaves from the River Zaire and Cabinda, was captured by His Majesty's Ship "*Sybilie*," on the 12th of October 1827, in Latitude 2. 15. North, with 87 Slaves on board, declared by the Master, Thomé Guedes Pinto de Vasconcellos, in his Examination, and supported by that of the Mate and Cook, to have been taken on board in the River Zaire, in 6. 6. South Latitude. This Evidence was contradicted by 2 of the Sailors, and 4 of the Slaves, on Examination, who proved them all to have been shipped from the Shore in the River Benin, and whose Evidence was so clear and satisfactory, that it left no doubt on the mind of the Court, that the "*Dianna*" had been illegally engaged, and had taken in her Slaves to the Northward of the Equator, and accordingly, the 8th of December 1827, passed Sentence of Condemnation against her, with her Tackle, Apparel, and Furniture, and decreed the 83 surviving Slaves to be emancipated, 4 having died previous to adjudication.

(Signed) JOSH. REFFELL.  
WM. SMITH.

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Third Enclosure in No. 2.

*Abstract of Proceedings under the British and Netherland Mixed Court of Justice at Sierra Leone, from the 1st of January 1827 to the 1st of January 1828.*

(No. 1.)—THE Brig "*Lynx*" was detained on the 9th of January 1827, in Latitude 2. 20. North, and Longitude 6. 0. East, by His Majesty's Ship "*Esk*," W. J. Purchas, Esq. Commander, sailing under Netherland Colours, and commanded by Paul Eugene Terrasse, with 265 Slaves on board.—The "*Lynx*" was owned by M. Barrouette, of Martinique, from whence she sailed in August 1826, for the Danish Island of St. Thomas, and from thence she cleared for the Coast of Africa, furnished with Dutch Papers from St. Eustatius.

No Claim having been made, the Court met for adjudication on the 21st of February 1827, when Sentence of Condemnation was passed upon the "*Lynx*," her Tackle, Apparel, and Furniture, and the surviving Slaves, 251 in number, decreed to be emancipated, 14 having died between the period of Capture and Condemnation.

(Signed) JOSH. REFFELL.  
WM. SMITH.

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Number of Cases Ad- judged between June 1819 and 1st January 1828.	Number of Vessels Libe- rated between June 1819 and 1st January 1828.	Number of Cases Ad- judged between 1st January 1827 and 1st January 1828.	NATIONS.	NAMES of VESSELS.	CLASS.	CONDEMNED.	LIBERATED.	Number of Slaves on board at the time of Capture.	Number of Slaves Re-man- cipatcd.	REMARKS.
83	9*	1	Portuguese.	Hiroina - - - - -	Brigantine -	Condemned	"	None	"	*One of these (the Brazilian Vessel "Perpetuo Defensor") restored to Claimant by Captors.
84	"	2		Eclipse - - - - -	Schooner -	"	"	"	"	
85	"	3		Invincivel - - - - -	Ship - - -	"	"	440	250	
86	"	4		Venus - - - - -	Schooner -	"	"	191	188	
87	"	5		Dois Amigos - - - - -	Brigantine -	"	"	317	308	
88	"	6		Independencia - - - - -	Schooner -	"	"	None	"	Total number of Slaves emancipated
89	"	7		Trajano - - - - -	Brig - - -	"	"	"	"	between June 1819, and January
90	"	8		Tenterdora - - - - -	Schooner -	"	"	"	"	1827 - - - - - } 9326
91	"	9		Carlota - - - - -	Ditto - - -	"	"	"	"	
92	"	10		Venturosa - - - - -	Brig - - -	"	"	"	"	
93	"	11		Conceição de Marie - - - - -	Brigantine -	"	"	232	198	
94	"	12		Providencia - - - - -	Schooner -	"	"	None	"	Total number of Slaves emancipated
95	"	13		Tres Amigos - - - - -	Ditto - - -	"	"	3	3	between January 1st, 1827, and
96	"	14		Conceição Paquete do Rio - - - - -	Sloop - - -	"	"	None	"	January 1st, 1828 - - - - - } 2861
97	"	15		Bahia - - - - -	Brig - - -	"	"	"	"	
98	"	16		Creola - - - - -	Brigantine -	"	"	308	289	
99	"	17		Silveirinha - - - - -	Brig - - -	"	"	266	209	
100	"	18		Copioba - - - - -	Sumacca -	"	"	None	"	
101	"	19		Toninha - - - - -	Schooner -	"	"	65	58	
102	"	20		Henriqueta - - - - -	Brig - - -	"	"	569	542	
103	"	21		Dianna - - - - -	Schooner -	"	"	87	83	Total number of Slaves emancipated
			Spanish.							between June 1819 and 1st January
104	"	22		La Paulita - - - - -	Schooner -	"	"	221	189	1828 - - - - - } 12,187
105	"	23		Emilia - - - - -	Ditto - - -	"	"	282	175	
106	"	24		Fama - - - - -	Ditto - - -	"	"	100	95	
107	"	25		- - - - -	- - - - -	"	"	"	23*	
108	"	26	Netherlands.	Lynx - - - - -	Brig - - -	"	"	265	251	*These Slaves were taken on board the Nether- land Brig "De Soelheid", but emancipated in the British and Spanish Court of Mixed Com- mission, having been purchased and put on board by Spanish subjects.
								3346	2861	

(Signed) **JOSH. REFFELL.**  
**WM. SMITH.**

## No. 3.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 10.)*

MY LORD,

*Sierra Leone, January 5, 1828.*

WE have the honour to transmit herewith a Copy of the Registry of Slaves emancipated by the Courts of Mixed Commission, established in this Colony for the prevention of the illicit Traffick in Slaves, during the period from the 5th day of July 1827 to the 5th day of January 1828.

You will perceive, my Lord, by this Document, that 683 have been emancipated in that period, that 682 were registered, and that 1 died between the time of emancipation and that of registration.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 3. (*Abstract.*)

*Register of Slaves emancipated, from 5th July 1827, to 5th January 1828.*

NAME of VESSEL.	Number Registered.	Number Died.	Number Emancipated.
Toninha. ....	58	"	58
Henriqueta. ....	542	"	542
Dianna.....	82	1	83
Total .....	682	1	683

## No. 4.

*His Majesty's Commissioners to The Earl of Dudley.— (Received April 15.)*

MY LORD,

*Sierra Leone, February 12, 1828.*

WE had the honour of receiving, on the 10th Instant, your Lordship's Despatch, dated the 13th of December 1827, in which your Lordship is pleased to authorize us to notify to *Dr. Fergusson*, his Appointment to the Situation of Surgeon to the Mixed Commissions on their proposed Establishment at Fernando Po.

We have in consequence addressed a Letter to that Gentleman, enclosing a Copy of your Lordship's Despatch, and, on the receipt of his Answer we shall have the honour of forwarding the same to your Lordship.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## No. 5.

*His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)*

MY LORD,

Sierra Leone, February 12, 1828.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 13th of December 1827, enclosing to us Copy of a Letter from one of the Secretaries of His Majesty's Treasury to Mr. Backhouse, covering Copy of Treasury Minute, dated 20th November 1827, respecting the Expenses attendant upon the subsistence of captured Negroes between the time of their Capture and that of their Condemnation.

The directions your Lordship has been pleased to give to us upon this subject shall be strictly attended to.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## No. 6.

*William Smith, Esq. to The Earl of Dudley.—(Received April 15.)*

(Extract.)

Sierra Leone, February 16, 1828.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, dated the 22d of November 1827, conveying to me His Majesty's gracious permission to visit England in the present Spring, for the sake of my health, for a period not exceeding Six Months residence therein.

I purpose availing myself of an opportunity offering from hence in May next, and shall not fail of acquainting your Lordship with the date of my quitting my Post, and of my subsequent arrival in England.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

(Signed) WM. SMITH.

## No. 7.

*William Smith, Esq. to The Earl of Dudley.—(Received May 27.)*

MY LORD,

Sierra Leone, April 7, 1828.

I HAVE the honour to report to your Lordship the arrival here of *John William Bannister*, Esq. whom The King has been graciously pleased to appoint Chief Justice of this Colony.

In accordance with the Stipulations of the Treaties with Foreign Powers for the suppression of the Slave-trade, and in the absence of the Lieutenant-Governor, that Gentleman has assumed the Office of His Majesty's Commissary Judge, *ad interim*, and was duly sworn in to the same this day.

Mr. *Reffell* has in consequence resumed his duties as Registrar to the Courts of Mixed Commission, which Mr. Magnus, the First Clerk to His Majesty's Commissioners, filled provisionally during the period Mr. *Reffell* acted in the higher Situation.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

(Signed) WM. SMITH.

## No. 8.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, May 30, 1828.

I HAVE the honour to acquaint you that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Prin-

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Principal Secretary of State for Foreign Affairs, and to confide to me the Seals of that Department.

I am accordingly to desire, that you will in future address to me your Despatches and Letters on Publick Business to be laid before The King.

And you will receive from me such Orders and Instructions as His Majesty shall think proper to give for your guidance and direction.

I am, &c.

*His Majesty's Commissioners.*

(Signed) ABERDEEN.

No. 9.

*William Smith, Esq. to The Earl of Dudley.—(Received June 29.)*

MY LORD,

*Sierra Leone, April 25, 1828.*

I BEG most respectfully to inform your Lordship that *Lieutenant-Colonel Lumley* returned here from the Gold Coast on the 21st Instant.

Colonel Lumley has, in virtue of his being at present Lieutenant-Governor, superseded Mr. *Bannister*, the Chief Justice, in the Office of His Majesty's Commissary Judge, *ad interim*, to the Courts of Mixed Commission, and entered upon the duties of the same.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

(Signed) WM. SMITH.

No. 10.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 9.)*

MY LORD,

*Sierra Leone, May 7, 1828.*

OBEYING the Instructions which we have received from His Majesty's Government, to communicate to your Lordship such facts as come to our knowledge relative to the Slave-trade, whether carried on by the Subjects of Foreign Powers, not Parties to the Treaties with Great Britain, for the suppression of that Trade, or by the Subjects of those Powers who have entered into Treaties for that object; we have to announce to your Lordship the arrival in this Harbour, on the 12th of April, of a Schooner, under French Colours, named "*La Fanny*," having on board 266 Slaves, shipped in the River Calabar, which River she had left only 3 days, when she was fallen in with and detained, on the 19th of March, by His Majesty's Ship "*Sybil*," Commodore Collier, in Latitude 3. 6. North, Longitude 6. 3. East, upon suspicion of having two National Characters—*Dutch* and *French*. Commodore Collier states, that his suspicion arose from the circumstance of a French Man-of-War having very recently been into the Calabar, and captured all Vessels under the White Flag, which were found trading for Slaves in that River; he therefore inferred that the Parties on board "*La Fanny*" must have produced *Dutch* Papers to the French Officers, to have escaped seizure; which inference was strengthened by his finding, concealed under the Master's Birth, a Dutch Ensign and Pendant. Under these circumstances he felt it to be his duty to send her here for further investigation; that, if his suspicions were established, she might be proceeded against in the British and *Netherland* Mixed Court of Justice.

The Agent of Commodore Collier (Mr. Macaulay) has been at considerable labour in investigating this affair thoroughly, but could not affix any other character upon her than *French*.

The Mixed Commissions were, therefore, not authorized to entertain any question respecting her. Mr. Macaulay, in consequence, deemed it advisable that she should be delivered up to the French Government, and she will be immediately dispatched to Senegal for that purpose, under the command of the British Officer who brought her up. Mr. Macaulay detained her here until this day, in the hope that on the arrival of His Majesty's Brig "*Plumper*," on board of which he understood some of the Crew of "*La*

*Fanny* were, he might be enabled to produce the proof required to bring her into the Courts of Mixed Commission. The "Plumper" arrived here on the 5th Instant, but no new matter was elicited from any of the Crew of the "*Fanny*." During her stay here, 9 of the unfortunate Slaves died, and 15 on the passage up (making a total of 24) out of 279, the number said to have been on board at the period of her detention.

By the Ship's Papers of "*La Fanny*," it appears she is the property of Messrs. Bonnaffe and Lariviere, of Guadaloupe, from the Government of which Island she obtained her Papers, dated at Pointe à Pitre, 20th of March 1827. These are countersigned at St. Jago de Cuba, by the French Consul there, Fleury, on the 24th of October following. Having taken on board a Cargo from Messrs. A. Joly and Co. of St. Jago de Cuba, Agents of Messrs. Bonnaffe and Lariviere, she sailed from thence on the 27th of October, direct for Africa. In the Instructions Messrs. Joly and Co. gave to the Captain, Jean Constantin, whom they appointed to that Situation in consequence of the death of a M. Lalonde (who appears on the Role d'Equipage, dated at Pointe à Pitre, 20th March 1827, as Captain; and by a marginal note on it, made at St. Jago, as having died there on the 1st of October following; and whose name is very familiar as being much concerned in the Slave-trade); they direct him "to go to the Island of Princes, and to one or more Ports on the Coast of Africa, where, having taken on board a return Cargo, he was to go to Pointe à Pitre, at Guadaloupe, the residence of Messrs. Bonnaffe and Lariviere, the Owners of the "*Fanny*."

They therein further state, that Mr. H. P. Hingelberg, the Second Captain and Conductor (Gereur) of the Voyage, possessed their entire confidence;—that he (the Captain) was to be guided by his directions, and that they had furnished him (H. P. Hingelberg) with the necessary instructions for the Voyage.

Their Instructions were written in French, with a translation in English attached. A Copy of the latter we beg to enclose, herewith, for your Lordship's information.

Those instructions, indeed, direct that he is to admit no Negroes as Passengers on board, under any pretext whatever; and profess to require him to purchase Palm Oil, assorted Woods, Ivory, &c.; but the subsequent conduct of the Parties employed in purchasing nothing but Slaves, would induce the belief, that the instructions were merely to meet the publick eye, if found in carrying on the prohibited traffick, and that there was a clear understanding that she should be employed for the purpose she was actually engaged in.

It does not appear that she called, as Messrs. Joly and Co. directed, at Princes; if she did, the vicinity of Calabar to that Island, rendered it an available and convenient Port for them to obtain such information as their real object required.

It occurred to us as being very probable, that "*La Fanny*" had made one successful Voyage to the Coast for Slaves, under the command of Lalonde, between the 20th of March and the 1st of October, the day on which he is said to have died at St. Jago, there being no Document to account for her employment in the intermediate time, and the period which elapsed between those two dates being quite sufficient for the purpose. We, therefore, made enquiry and learnt, that the Captain, Jean Constantin, acknowledged such to be the fact, he being then on board of her; that the Slaves were landed at Guadaloupe; that she did not anchor, but lay off and on while they were being disembarked at Pointe à Pitre, and immediately that was effected, made sail for St. Jago. He further stated, that Lalonde was not dead, but left the Vessel from some particular motives, but what those motives were, he did not know.

We abstain from commenting on this glaring violation of the Laws of France by its own Subjects, but we deem it our bounden duty to report to your Lordship the foregoing statement, and we hope that in so doing we shall meet with your Lordship's approbation.

We have the honour to be, &c.

(Signed)

D. DENHAM.  
WM. SMITH.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

Enclosure in No. 10.

(Translation.)

*Instructions to the Mate and Supercargo of the Schooner "La Fanny."*

SIR,

Santiago de Cuba, 22d October, 1827.

IN consequence of the favourable manner the French and American Consuls of this Place have recommended you to us for your integrity and abilities, in our capacity of Agents of Messrs. Bonnafe and Lariviere, of Pointe-à-Pitre, Island of Guadaloupe, Owners of the French Schooner "*Fanny*," Captain John Constantin, we have thought proper, in view of the interests of said Friends, to appoint you Mate of the said Schooner, and Supercargo, during the Voyage she is on the eve of undertaking from this Port to Princes Island, thence to one or more Ports on the Coast of Africa, thence to return to Guadaloupe, agreeably to the Instructions which we now hand you.

We have to observe, that solely the necessity of presenting to the French Consulate of this City, a French Subject, as Captain of said Vessel, has obliged us to give the command to Captain Constantin, not judging him capable of fulfilling all its duties. We have therefore instructed him to hold himself in all things, and in every circumstance, subject to your order and judgment.

You will find herein, Invoice and Bill of Lading of the Cargo of the "*Fanny*." You will sail immediately for Princes Island, where you will call on Mr. Peter Bertrand, who, on presentation of this, which you can consider as our full authorization, will deliver to you the goods he has in his possession in the Brig "*Aimable Pauline*," wrecked on that Coast. You will add these goods to those you have already on board, and after having advised with Mr. Bertrand, on the most convenient Port in the Neighbourhood for the sale of your Cargo and purchase of a return one, composed of Palm Oil, assorted Woods, Ivory, &c. you will conform to his advice, and immediately sail for the Port he will have recommended, where we hope you will find a good market. As soon as your business will be concluded, you will make all sail for Point-à-Pitre, Guadaloupe, where, as aforesaid, your Owners, Messrs. Bonnafe and Lariviere, reside.

In case of accident, we recommend particularly to you to see that Captain Constantin makes the necessary verbal Processes, Protests, &c. &c. as circumstances may be, in order that the Owners may claim from the Underwriters. We request your particular attention, as we have been informed that they experienced considerable difficulty on account of Captain Blondin's having neglected to do so.

Captain B. also acted against his orders, by taking Negroes as Passengers; we beg you to admit none on board under any pretext whatever.

We recommend the greatest economy in every thing during the Voyage. Your experience, zeal, and activity, give us reason to hope for an advantageous result for your Owners. We shall be glad not to be disappointed. Your pay as Second Captain is 320 francs monthly, and as Supercargo 5 per Cent. Commission on the gross proceeds of the sales of your return Cargo.

We wish you good health, and a lucky Voyage, and remain

Your's, &amp;c.

Mr. Hans P. Hingelberg.

(Signed) A. JOLY &amp; CO.

## No. 11.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, July 9, 1828.

I HEREWITH transmit to you, for your information, 6 Copies of the Papers, marked A. and B., relative to the Slave-trade, which have been presented to both Houses of Parliament by His Majesty's Command, in the course of the present Session.

I am &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

## No. 12.

*William Smith, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

Sierra Leone, May 7, 1828.

IN reference to His Majesty's Commissioners' Despatch of the 12th of February last, I have the honour herewith to transmit to your Lordship, the Copy of a Letter which has been addressed to me by *Dr. Fergusson*, in reply

to a Communication, which was made to him respecting the Situation of Surgeon to the Mixed Commissions, on their being removed to *Fernando Po*.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,* (Signed) WM. SMITH.  
&c. &c. &c.

Enclosure in No. 12.

*Dr. Fergusson to William Smith, Esq.*

SIR,

*Sierra Leone, April 21, 1828.*

I HAVE the honour to acknowledge the receipt of your Letter, enclosing Copy of a Despatch from The Earl of Dudley, in reply to my Application for the Appointment of Surgeon to the Courts of Mixed Commission.

I beg leave most respectfully to state, that, as his Lordship has therein signified the Salary attached to that Appointment is only to commence from the time of the arrival of the Mixed Commissions at *Fernando Po*, that were I now to accept his Lordship's gracious offer, I should be under the necessity of requesting that I might be placed on the half-pay of the Army; and as the period of the removal of the Mixed Courts to that Island is yet undefined, the probability is, that I should be for a considerable period thrown out of employment.

I have, therefore, to solicit his Lordship's favourable indulgence, through you, that I may not be called upon to accept the Appointment till the contemplated removal actually takes place.

I have the honour to be, &c.

*William Smith, Esq.*

(Signed) W. FERGUSSON, Surgn. Rl. Af. Col. Corps.

No. 13.

*William Smith, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Sierra Leone, May 6, 1828.*

I HAVE the honour to acquaint your Lordship with the arrival here of *Lieutenant-Colonel Denham*, on the 3d Instant, whom His Majesty has been graciously pleased to appoint Lieutenant-Governor of this Colony.

Colonel Denham was sworn in, and assumed the Government on the 5th Instant.

The Treaties with Foreign Powers for the repression of the Slave-trade, as well as the Act of Parliament of the 5th George IV., Cap. 113, § 54, make it obligatory on the Gentleman holding the Office of Lieutenant-Governor, to take upon himself, when there is a vacancy, the Situation of His Majesty's Commissary-Judge, *ad interim*, in the Courts of Mixed Commission. Colonel Denham was, therefore, sworn into the latter Office this day, and entered upon the duties thereof.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,* (Signed) WM. SMITH.  
&c. &c. &c.

No. 14.

*J. W. Bannister, Esq. to John Backhouse, Esq.—(Received Aug. 16.)*

SIR,

*Sierra Leone, May 31, 1828.*

I BEG to acquaint you, for the information of the Earl of Dudley, that on this day I have taken the Oaths of Office as Commissioner of Arbitration in the Courts of the Mixed Commission established in this Colony, and entered upon the duties thereof.

I have the honour to be, &c.

*John Backhouse, Esq.* (Signed) JOHN WM. BANNISTER.  
&c. &c. &c. Chief Justice.

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## No. 15.

*John Backhouse, Esq. to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, August 22, 1828.

WITH reference to the Despatch of Mr. Smith, of the 7th of May last, Lord Aberdeen desires me to say, that, in compliance with the request contained in the Enclosure to that Despatch, *Dr. Fergusson* will not be called upon formally to signify his acceptance of the Appointment of Surgeon to the Courts of Mixed Commission at *Fernando Po*, until the removal of the Commission to that Island shall actually take place.

I have, &amp;c.

*His Majesty's Commissioners.*

(Signed)

J. BACKHOUSE.

## No. 16.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received September 12.)*

MY LORD,

Sierra Leone, June 9, 1828.

IT becomes my painful duty, as His Majesty's Commissioner of Arbitration, *ad interim*, to communicate to your Lordship the melancholy news of the death of *Lieutenant-Colonel Denham*, the Lieutenant-Governor, my Colleague in the Mixed Commissions. This most unhappy and much-to-be-lamented event occurred at about 9 o'clock this Morning, after a severe illness of 9 days with the remittent fever of this Country. His Majesty has been deprived, by the death of Lieutenant-Colonel Denham, of a most important and valuable Officer, whose loss is deeply mourned by all classes of society here.

*Lieutenant-Colonel Lumley*, as Senior Field-Officer, has assumed the Government of this Colony, and will accordingly be sworn in, to-morrow, to the Office of His Majesty's Commissary Judge, *ad interim*, vacant by the death of the Lieutenant-Governor.

I have the honour to be, &amp;c.

(Signed)

JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*

&amp;c.

&amp;c.

&amp;c.

## No. 17.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, September 27, 1828.

I HEREWITH transmit to you, for your guidance, the Copy of an Instruction which, in accordance with the opinion of The King's Advocate, I addressed, on the 18th Instant, to His Majesty's Commissioners at the *Havannah*; upon the Question—whether the presence of the Commander of a Capturing Ship is necessary to the due adjudication of a Prize?

I am, &amp;c.

*His Majesty's Commissioners.*

(Signed)

ABERDEEN.

## No. 18.

*Joseph Reffell, Esq. to John Backhouse, Esq.—(Received September 30.)*

SIR,

*Mixed Commission Registry, Sierra Leone, July 23, 1828.*

I BEG leave most respectfully to enclose, for the information of the Right Honourable the Earl of Dudley, Copy of a Letter addressed to me by his



Honour the Lieutenant-Governor, and of the Enclosure therein referred to, reporting the Establishment at *Fernando Po* being ready to receive the Courts of Mixed Commission.

I also enclose Copy of the Answer I returned to the Lieutenant-Governor, and which I hope will be approved of.

I have the honour to be, &c.

*John Baekhouse, Esq.*  
&c. &c. &c.

(Signed) JOSH. REFFELL, Regr.

First Enclosure (A.) in No. 18.

*Lieutenant-Governor Lumley to Joseph Reffell, Esq.*

SIR,

Government-House, July 9, 1828.

I BEG leave to request you will reply to the enclosed Copy of a Letter addressed to me by Captain Owen, R. N. Superintendent of *Fernando Po*, and that the same may be forwarded through me.

As you are the only confirmed Officer of the Mixed Commission Court at present here, the others holding but acting Appointments, is my reason for calling upon you.

I have the honour to be, &c.

*Joseph Reffell, Esq.*

(Signed) H. LUMLEY, Lt. Governor.

First Enclosure (B.) in No. 18.

*Captain Owen to Lieutenant-Governor Lumley.*

SIR,

H. M. Ship "Eden," Sierra Leone, July 8, 1828.

IN compliance with the Orders I am under, to report to the Governor of Sierra Leone, whenever I may be ready to receive the Mixed Commission Court, now at Sierra Leone, at the Establishment formed at "Clarence," on *Fernando Po*, under my superintendence; I beg to acquaint you, that we are ready to receive the Commissioners of that Court whenever it may please His Majesty's Government to order them there, and that, if they have received such orders, the Ship is ready to convey them to *Fernando Po*.

I am, &c.

*Lieutenant-Colonel Lumley.*

(Signed) W. F. W. OWEN, Captain.

Second Enclosure in No. 18.

*Joseph Reffell, Esq. to Lieutenant-Governor Lumley.*

SIR,

Mixed Commission Registry, Sierra Leone, July 9, 1828.

I HAVE the honour to acknowledge the receipt of your Letter of this date, covering Copy of a Communication from Captain Owen, R. N. Superintendent of *Fernando Po*, stating that the Establishment is ready to receive the Commissioners of the Mixed Commission Court now here, whenever it may please His Majesty's Government to order them to that Island, and that if they have received such Orders, His Majesty's Ship "Eden" is ready to convey them there.

As the only Officer of the Courts, at present in the Colony, confirmed by Commission from His Majesty, I beg leave, in obedience to your Honour's commands, to state, that as no orders or arrangements of His Majesty's Government have yet been received by the Mixed Commissions now established here, regarding their removal from hence, it is quite impossible for such a measure to be carried into effect.

I have, &c.

*Lieutenant-Colonel Lumley.*

(Signed) JOSH. REFFELL, Registrar.

No. 19.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

Sierra Leone, July 5, 1828.

WE have the honour to transmit, herewith, Copy of the Registry of Slaves emancipated by the Courts of Mixed Commission, established in this

Colony for the prevention of the illicit traffick in Slaves, from the 5th day of January 1828, to the 5th of July 1828.

Your Lordship will perceive by this Document, that 1,094 have been emancipated, and registered in that period.

We have the honour to be, &c.

(Signed)

H. LUMLEY.

*The Right Hon. The Earl of Dudley,*

JOHN WM. BANNISTER.

&c.

&c.

&c.

Enclosure in No. 19. (Abstract.)

*Register of Slaves emancipated, from 5th January to 5th July 1828.*

NAME OF VESSEL.	Number Registered.	Number Died.	Number Emancipated.
Gertrudes - - - -	155	"	155
Fanny - - - - -	252	"	252
Voadora - - - - -	61	"	61
Vingador - - - -	624	"	624
Feliz Victoria - - -	2	"	2
Total - - -	1,094	"	1,094

No. 20.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, July 7, 1828.*

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 4th of November 1827, in reply to His Majesty's Commissioners' Communication, on the subject of the purchase and sale, by His Majesty's Naval Officers, of Vessels, which had previously been condemned as Slave-traders.

We have the honour to be, &c.

(Signed)

H. LUMLEY.

*The Right Hon. The Earl of Dudley,*

JOHN WM. BANNISTER.

&c.

&c.

&c.

No. 21.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 4, 1828.*

IT is with deep regret that I have the painful duty of acquainting your Lordship with the death of the late Lieutenant-Colonel Denham's Successor in this Government.—His Honour *Lieutenant-Colonel Lumley*, His Majesty's Commissary Judge, *ad interim*, and my Colleague in the Mixed Commission, fell a victim on the 2d Instant, to the fever of this Country, after a short but severe illness of 7 days. He is succeeded in the Government, in the absence of a Field-Officer, by The King's Advocate of this Colony, *Mr. Smart*, who will, in the event of the business of the Mixed Commission requiring his services before the arrival of Mr. Jackson, be sworn in to the Office of His Majesty's Commissary Judge. I have the honour to be, &c.

(Signed)

JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*

&c.

&c.

&c.

No. 22.

*Samuel Smart, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 6, 1828.*

I HAVE the honour to acquaint your Lordship that, by the unfortunate death of the late Lieutenant-Governor, Lieutenant-Colonel Lumley, and by virtue of His Majesty's Charter to this Colony, its Government has devolved upon me.

The business of the Mixed Commission Courts requiring that I should, as Acting Governor, assume the Office of His Majesty's Commissary Judge, *ad interim*, I have accordingly taken the necessary Oaths before the Chief Justice, and entered upon the duties of that Situation.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley.*  
    &c.           &c.           &c.

(Signed) S. SMART.

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No. 23.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 16, 1828.*

IT has become my duty, by the death of the late Lieutenant-Governor, His Majesty's Commissary Judge, *ad interim*, to report the Cases of the several Vessels undermentioned: viz. the *Spanish* Schooner "*Musquito*," or "*Elizabeth*;" the *Brazilian* Schooner "*Voadora*;" the *Brazilian* Brig "*Vengador*;" the *Brazilian* Schooner "*Terceira Rosalia*;" the *Spanish* Schooner "*Feliz Victoria*;" and the *Spanish* Schooner "*Emprendador*;" adjudicated by the late Lieutenant-Colonel Lumley and myself, before that lamented event; which, I trust your Lordship will receive as a sufficient reason why those Reports, and the Despatches covering the same, bear my Signature only.

I have the honour to be, &c.

(Signed) JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
    &c.           &c.           &c.

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No. 24.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received November 18.)*

MY LORD,

*Sierra Leone, September 2, 1828.*

I TAKE the earliest opportunity of informing your Lordship of my arrival here, on the 26th Ultimo, His Majesty's Ship "*Medina*" having been detained at Lisbon upwards of 3 Weeks for Mr. *Consul Goodwin's* Exequatur, and again for 1 Month at Madeira.

The Government of this Colony having devolved on Mr. *Smart*, The King's Advocate, in consequence of the death of Colonel Lumley, I lost no time, in obedience to the Instructions contained in the Earl of Dudley's Despatch of the 15th of January last, addressed to Mr. Smith and myself, in taking, before the Chief Justice, the several Oaths prescribed by the Instruments enclosed in that Despatch, in conjunction with Mr. *Smart*, as Acting Commissioner of Arbitration, in virtue of his, *ad interim*, Office of Governor, and in administering to Mr. *Joseph Reffell* those required of him in his character of Secretary or Registrar to the Mixed British and Foreign Commissions.

F

No Foreign Commissioner is at present at Sierra Leone, and Mr. Smith, His Majesty's Commissioner of Arbitration, had, as your Lordship is aware, availed himself of his leave of absence prior to my arrival; but I have received from Mr. *Magnus* the Archives of these Commissions, brought down, with the greatest regularity, to the present moment; and I have great pleasure in acknowledging my obligations, both to Mr. *Reffell* and to that Gentleman, for the information and assistance which their long and zealous services, in their respective Departments, so well qualified them to afford me in entering upon my present duties, in the pursuance of which I shall not fail to follow, strictly, the line pointed out by the Instructions heretofore given to my Predecessors, or which may, in future, be transmitted to me by His Majesty's Secretary of State, for my guidance.

I have the honour to be, &c.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

No. 25.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Nov. 18.)*

MY LORD,

*Sierra Leone, September 3; 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Circular Despatch of the 30th of May last, addressed to His Majesty's Commissioners at this Place, acquainting them, that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Principal Secretary of State for Foreign Affairs, and to confide to you the Seals of that Department.

I beg leave to offer to your Lordship my sincere congratulations on so distinguished a mark of His Majesty's favour and confidence, and to assure you of my best endeavours, satisfactorily to fulfil any Instructions which your Lordship may have occasion to transmit to me.

I have the honour to be, &c.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

No. 26.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, December 10, 1828.*

I HAVE received your Despatches, up to the date of the 19th of September, of this Year.

Reserving for a future occasion the Instructions which I may probably have to transmit to you upon some of the subjects treated of in those Despatches, I avail myself of this opportunity of observing to you, that all Official Communications from the Court of Mixed Commission ought to bear the signatures of both the Commissioners, or Acting Commissioners, a formality which has been neglected with respect to the above-mentioned Despatches, which are signed by Mr. George Jackson alone.

I have also to remark to you, that no Despatch should treat upon two distinct subjects, as was the case with that of the 19th of September, (*Portugal and Brazil*.) in which the Cases of two separate Vessels were reported. I am, &c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*

## No. 27.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, December 29, 1828.

I HAVE again to remark, that the Despatches are, with the exception of those upon the pecuniary Accounts of the Commission, signed by Mr. George Jackson alone; and that many of the latter treat of more than one subject: one of them relating to the Cases of no less than 5 Vessels.

I have also to remark, that the Communications upon the Vessels adjudicated are less full than usual; in the Cases of the "*Henriette*," and the "*Sociedade*," even the period of the arrival of those Vessels at Sierra Leone, and the date of the issue of the Monition is omitted: it is not stated whether the Monition was properly answered or returned. Neither is it mentioned, in respect of the "*Henriette*," whether the Slaves were or were not landed previously to adjudication.

The Reports should contain a full detail of all the Evidence delivered: and the Despatches, enclosing those Reports, should state every material fact, accompanied with whatever observations may be necessary to put His Majesty's Government in possession of all the features of each Case.

I am, &amp;c.

*His Majesty's Commissioners.*

(Signed) ABERDEEN.

## No. 28.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, December 31, 1828.

WITH reference to the several Despatches of His Majesty's Commissioners, dated August 8th, I have to acquaint you, that the attention of the Lords Commissioners of the Admiralty has been called, to the insufficiency of the Certificate under which the Slaves from the "*Musquito*" were landed at Fernando Po,—to the irregularity of Captain Owen in suffering the Master of the Vessel in question to remain at that Island,—to the impropriety of his administering to the Master of the Vessel an Oath, under which the Report of the Case was drawn up by him,—to his deviation from the "Instructions," in detaining at Fernando Po the Vessels "*Musquito*," "*Voadora*," and "*Felix Victoria*,"—and to his unauthorised conduct in directing the sale of the Stores and Cargo of the latter Vessel:—and the Lords of the Admiralty have been moved to require from that Officer an explanation of his conduct, and to enjoin to him, in future, a more strict attention to the Instructions annexed to the Treaties with Foreign Powers for the abolition of the Slave-Trade.

The Sentences of His Majesty's Commissioners, which condemned the "*Musquito*," alias "*Elizabeth*," the "*Voadora*," and the "*Felix Victoria*," and emancipated the Slaves found on board of these Vessels, were perfectly correct and proper; and Mr. Bannister acted with propriety in noticing the irregularities alluded to for the consideration of His Majesty's Government.

I have, &amp;c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*

# SIERRA LEONE. *(Spain.)*

No. 29.

*His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)*

MY LORD,

*Sierra Leone, February 14, 1828.*

WE have the honour to enclose herewith, the Report of the Case of the Spanish Schooner "*Gertrudis*," Francisco Sans, Master, condemned in the British and Spanish Court of Mixed Commission established here, on the 2d Instant, for being engaged in the illicit Traffick in Slaves, in violation of the Treaty between Great Britain and Spain.

This Vessel, sailing under Spanish Colours, and owned by her Commander, was detained on the 12th of last Month, off the Gallinas, by a Boat of His Majesty's Ship "*Sybille*," having on board 155 Slaves, shipped two days previously at that Port, and reached this on the 24th of January with the Slaves in good health.

From the Evidence of the Master it appeared, that this Vessel was purchased by him at the Havannah, in August last, from one James Francis, an American, for 5,000 Dollars, she being at the time called the "*Julia*," and that the Slaves on board were to have been delivered on the Coast of Havannah, for the risk and benefit of himself and one Isidro Romagoza, the Owner and Consignee of them.

The violation of the Treaty in the Case of this Vessel, is so clear as to render it unnecessary for us to trouble your Lordship with further details.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.

WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
*&c.                      &c.                      &c.*

Enclosure in No. 29.

*Report of the Case of the Spanish Schooner "Gertrudis," Francisco Sans, Master.*

THIS Vessel, of the burthen of 77 Spanish Tons, and manned with 20 Officers and Mariners, was detained, on the 12th day of January 1828, in or about Latitude 6. 27. North, Longitude 11. 54. West, by a Boat of His Majesty's Ship "*Sybille*," under the command of Lieutenant Turner, of that Ship, and having at the time on board 155 Slaves, said to have been shipped at the Gallinas.

On the 24th of January 1828, she arrived here with the Slaves in good health, when the Papers of the Vessel were brought into Court, and the usual Monition prayed for and granted.

From the Evidence of the Master, a Subject of The King of Spain, examined on behalf of the Captors, it appeared that the Owner and Consignee of the Slaves was one Isidro Romagoza, of the Havannah, but that the Vessel belonged solely to himself; that the present Voyage began at the Havannah, and was to have ended there, the Vessel having touched in the course of it at Princes Island, Cape Mount, and the Gallinas;—at Cape Mount to take in Rice and Water, and at the Gallinas to embark the Slaves found on board her, and which latter Place she had only left 2 days when she was captured.

No Claim being made in this Case, and the Monition returned, certified to have been duly served, the Court met on the 2d of February 1828, and the proof of illicit Slave-dealing, in violation of the Treaty between Great Britain and Spain, having been clearly established, condemned the Vessel, her Tackle, Apparel, and Furniture, as good and lawful Prize to the Governments of Great Britain and Spain, and decreed the emancipation of the Slaves found on board her, 155 in number, and as so seized and prosecuted by Commodore Collier, and the Officers and Crew of His Majesty's Ship "*Sybille*."

(Signed)

JOSH. REFFELL.

WM. SMITH.

## No. 30.

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 27.)*

MY LORD,

*Sierra Leone, March 26, 1828.*

WE beg to acknowledge the receipt of your Lordship's Despatch, dated the 31st of December 1827, instructing us, as regards the Case of the Brigantine "*Isabella*," captured by His Majesty's Ship *Redwing*, that it would not be proper that the Mixed Commission should do any act with reference to the Ship and Slaves not brought within their jurisdiction, and with regard to which no regular Evidence is presented to them.

This Communication from your Lordship is very satisfactory, as affording a precedent to us for our guidance in future Cases of a similar nature.

The 45 Slaves, which the Captor states he had taken from the "*Isabella*," in order to afford more room and accommodation to the remainder left on board, were transferred by him to a Spanish Schooner, named the "*Ana*," which he had captured about the same period.

That Vessel arrived here in safety, was prosecuted in the British and Spanish Court of Mixed Commission, for being engaged in the illicit traffick in Slaves, and was condemned on the 3d of January 1826, when the survivors of the said 45 Slaves, some having died on their passage up, were emancipated and delivered over to the Colonial Government.

We have the honour to be, &c.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

## No. 31.

*His Majesty's Commissioners to John Backhouse, Esq.—*  
(Received November 10.)

SIR,

*Sierra Leone, July 5, 1828.*

IN pursuance of the 75th Clause of the Act, passed in the Fifth Year of the Reign of His present Majesty, entitled "An Act to amend and consolidate the Laws relating to the abolition of the Slave-trade," we beg to enclose a Return of all the Cases of *Spanish Vessels* adjudicated in the British and Spanish Court of Mixed Commission, established here, from the 1st of January 1828, to the 1st of July 1828.

We have the honour to be, &c.

*John Backhouse, Esq.*  
&c. &c. &c.

(Signed) H. LUMLEY.  
JOHN WM. BANNISTER.

## Enclosure in No. 31.

*Return of Spanish Vessels Adjudicated by the British and Spanish Court of Mixed Commission established at Sierra Leone, from the 1st day of January 1828, to the 1st day of July 1828.*

NAME of VESSELS.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether forfeiture or restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.
Gertrudis.	Jan. 12, 1828.	{ Schooner and 155 Slaves. }	{ F. A. Collier, } { H.M.S. Sybille. }	Feb. 2, 1828.	{ Condemned for illicitly trading in Slaves. }	{ The Schooner sold by publick auction, and the Proceeds lodged in the Colonial Chest. }
Musquito (al.) Elizabeth.	April 14, 1828.	{ Schooner and 126 Slaves. }	{ W. F. W. Owen, } { H. M. S. Eden. }	June 16, 1828.	{ Condemned for illicitly trading in Slaves. }	{ Both of the Schooners, and their Cargoes, were sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry. }
Feliz Victoria.	Feb. 3, 1828.	{ Schooner and 2 Slaves. }	{ W. F. W. Owen, } { H. M. S. Eden. }	June 23, 1828.	{ Condemned for illicitly trading in Slaves. }	

Sierra Leone, July 1, 1828.  
JOSH. REFFELL, Registrar.

(Signed) H. LUMLEY,  
JOHN WM. BANNISTER.

## No. 32.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

Sierra Leone, August 8, 1828.

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Musquito*" alias "*Elizabeth*," condemned on the 16th of June last, in the British and Spanish Court of Mixed Commission, established here, when the surviving Slaves who were on board of her were emancipated.

This Vessel was seized, on the 14th of April last, within the entrance of the Old Calabar River, by Lieutenant Robinson, R. N. in a Boat belonging to His Majesty's Ship "*Eden*," she having at the time 126 Slaves on board.

On the 21st of May following, the Vessel arrived here from Fernando Po, to which Island she had been taken after Capture, and where 124 Slaves were landed by order of Captain Owen, 2 having jumped overboard on the passage to that Island.

The only Papers (the Spanish having been concealed or made away with) on board this Vessel were *French*, under which Colours she was seized, on information of her being *bond fide* a Spanish Vessel, and in the Evidence



brought before the Court, this was not only clearly established, but further that the French Papers were surreptitiously obtained at St. Thomas, to which Island the Vessel was conducted from Porto Rico, under Spanish Colours, and by the Spanish Master.

At St. Thomas she received on board some of the Crew and the French Master, who commanded her when she was seized; the Spanish Master, who was also Supercargo and part Owner of the Slaves, having remained behind in the Calabar with a further number of 125, whom he declined risking on the present occasion for fear of Capture.

From the Evidence of the Spanish Papers, it is not clear whether the outward bound Cargo was shipped at Porto Rico, or St. Thomas, but from the Owner of the Vessel living in the Havannah, where the Cargo of Slaves was to be delivered, little or no doubt can exist of its having been put on board at the former of these Places, and that her having been conducted to St. Thomas was merely to cover the illegal transaction she was engaged in, by procuring French Papers, and a Master of that Nation. The circumstance of this being Spanish property, is also avowed in a Report of the Case (entirely corroborative of the Evidence of the Witnesses) by the French Master, which Document was sworn to before Captain Owen at Fernando Po, and sent here with the Ship's Papers; in this he, after setting forth that the Vessel left Porto Rico with an entire Spanish Crew, states that the Owner, Francisco Suler, came from that Port to St. Thomas, and made proposals to him, (the French Master) to make this Voyage, for which he (Suler) procured French Papers, which cost him 150 dollars, the Vessel likewise having Spanish Papers on board in charge of Juan Llansana, the Spanish Supercargo, who, he further states, was left behind in the Calabar with a part of the Slaves.

It here becomes my duty to draw your Lordship's attention, as in the Case of the "*Voadora*," to the circumstance of Captain Owen having landed the Slaves belonging to this Vessel, at Fernando Po.

I consider it necessary also to mention to your Lordship, that it appears from Documents filed in this Case, that Captain Owen took out of this Vessel, for the Publick Service, 3 sweeps, valued by 2 Persons under his directions at £2 5s., and also 46 dollars found on board her, and for both which amounts he states he is accountable to the Court; as however his Agent here has not paid the same into the Registry, and the Proceeds of the Vessel have since been lodged in the Military Chest, it will remain for Captain Owen to account to the Lords of His Majesty's Treasury for the amount.

I have the honour to be, &c.

(Signed JOHN WM. BANNISTER.)

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

Enclosure in No. 32.

*Report of the Case of the Spanish Schooner "Musquito," alias "Elizabeth," Bartholomew Rochefort, Master.*

THIS Vessel, with 126 Slaves on board, was seized, on the 14th of April 1828, at anchor about 5 miles within the entrance of the Old Calabar River, by Lieutenant Robinson, R. N., commanding 2 Boats of His Majesty's Ship "*Eden*." This Officer certifies, "that he detained her in pursuance of orders received from Captain Owen, of His Majesty's said Ship, who had information that she was a Spanish Vessel, and the majority of her Crew being Spaniards, but when boarded she was under a French Flag;" and further, "that he (Lieutenant Robinson) dispatched her immediately to Clarence Cove for Captain Owen to dispose of, having a Crew of 21 persons, and the Spanish Master being left on Shore at Calabar."

On the 16th of April, Captain Owen, with reference to this Vessel, then at Clarence, Fernando Po, certifies, that he had "detained, for adjudication, the Spanish Schooner "*Moskito*," or "*Murinheiro*," or "*Isabella*," or "*Elizabeth*," of Porto Rico, and had received from Mr. Bartholomew Rochefort certain Papers in the French Language, purporting to be an Act. of Francis-

sation, a Role d'Equipage, a Port Clearance, and Manifest of the Cargo, all dated at Pointe à Pitre, in Guadaloupe, the 10th and 11th of August last, except the Act of Francisation, which is dated in 1819." He further goes on to state, that "these Papers are proved to have been received at St. Thomas, and to be false, by the testimony of Antonio Barry, William Knight, and Jean Julien, and acknowledged to be so by Mr. Rochefort himself, and that these all state the Vessel herself has not been at the Island of Guadaloupe this Voyage."

On the 17th of April 1828, the Vessel still lying at Fernando Po, Captain Owen issued an Order, in which, after stating that in consequence of the Report made to him by the Assistant-Surgeon and another Officer of His Majesty's Ship "Eden," "it would be inhuman to suffer all the Slaves now on board the "Musquito" or "Elizabeth" to proceed on the Voyage to Sierra Leone, and he therefore directed that all the Men and Women Slaves then on board the said Schooner should be landed, and delivered to Captain H. C. Harrison, R. N., the Superintendent of the Works at Clarence, and that the male and female Children under 13 Years of age should be retained on board for the Voyage here." By virtue of this authority, the whole of the surviving Slaves, stated to be 88 males and 36 females, 2 Men having been drowned on the passage from the Place of Capture to Fernando Po, were landed, and it must therefore be presumed that none of them were under the prescribed age.

The Vessel arrived here on the 21st of May 1828, and, on the following day, her Papers were brought into the Registry and filed, and the usual Monition went forth, returnable on the 2d of June 1828, on which date it was certified to have been duly exhibited.

From the Evidence of the Chief Mate, and two other Witnesses examined on behalf of the Captors, (the Master having chosen to remain at Fernando Po), it appeared that this Vessel was owned by one Don Francisco Suler, a Merchant in Porto Rico; that she had 2 Masters, and was furnished with 2 sets of Papers, (French and Spanish), the former calling her the "Elizabeth," and the latter the "Marinheiro;" that the Spanish Master, John Liansana, took the command of the Vessel in Porto Rico, from whence she proceeded, under Spanish Colours, to St. Thomas, to procure the French Papers: she there, also, took on board the French Master, Rochefort, and proceeded to the River Calabar, where she hoisted French Colours, and commenced trading for Slaves, the Spanish Master acting as Supercargo; and further, that the Vessel there took on board the 126 Slaves, with which she was captured, and left behind, in that River, the Spanish Master and Supercargo, with 125 more Slaves, which, although purchased, he would not ship, for fear of being captured. The Evidence of these Witnesses went further to prove, that the Spanish Master, together with the aforesaid Suler, and another Merchant, in the Havannah, were the Owners of the Slaves, which were to have been landed at Porto Rico, or the Matanzas, on their united account: they differed, however, in their Evidence, as to what became of the Spanish Papers, the Chief Mate swearing that they were retained by the Spanish Master and Supercargo, and the other 2 Witnesses that they were made away with on board the Vessel about the time of Capture.

The Court met to adjudicate this Vessel on the 16th of June 1828; and, as the Evidence clearly established her to be a Spanish Vessel engaged in the Slave-traffic to the Northward of the Equator, for the real account, risk, and benefit of Spanish Subjects, unhesitatingly condemned the "Musquito," alias "Elizabeth," for a breach of the Treaty between Great Britain and Spain, and declared the emancipation of the 124 Slaves (or the survivors of them) landed at Fernando Po; and, also, that there were on board the Vessel, when captured, 126 Slaves, the said Vessel having been seized and detained by Captain Owen and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

### No. 33.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

I HAVE the honour to enclose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Feliz Victoria*," condemned on the 23d of June 1828, in the British and Spanish Court of Mixed Commission established here, when the Slaves on board of her were emancipated.

This Vessel, although seized on the 3d of February 1828, did not reach here for adjudication until the 9th of June following, after a delay of upwards of 4 Months, a great portion of which time she was detained by the Captor at Fernando Po, having only left that Island on the 13th of May. Having been abandoned by the Master and Crew, with the exception of 2 men, one of whom died before she was sent here from Fernando Po, the only Evidence to prove that she was engaged in the Slave-traffic, and that the 2 Negroes found on board her were Slaves, was the surviving Seaman, Manoel Joaquim, alias James Harry. From his testimony, however, it was clear, that the Vessel sailed direct from the Havannah to the River St. John, to the Northward of the Equator, for the purpose of procuring a Cargo of Slaves, and that

150 were ready to be embarked, when she was seized at anchor in that River with only 2 of her intended Cargo on board.

I beg to draw your Lordship's attention not only to the circumstance of the Captain in this Case having detained this Vessel for the long period he did at Fernando Po, but also to his having taken out of her, and landed at that Island, the Cargo and Stores she had on board, which were sold under his direction, and the nett proceeds, with 496 dollars found on board the Vessel, and paid into the Treasury at Fernando Po, amounting to £222 5s. 1½d. remitted to the Registrar, in a Bill on the Lords of His Majesty's Treasury. The full particulars of these Sales will be before your Lordship, with the Account Sales of the Vessel, when the Bill in question will also be forwarded.

I have the honour to be, &c.

(Signed) JOHN WM. BANNISTER.

*The Right Hon The Earl of Dudley,*

&c.

&c.

&c.

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Enclosure in No. 33.

*Report of the Case of the Spanish Schooner, "Feliz Victoria," José Roquer, Master.*

THIS Vessel was seized, on the 3d of February 1828, at anchor in the River St. John, by the Tender of his Majesty's Ship "Eden," with a Boat of His Majesty's said Ship on board her, under the command of Lieutenant Badgley, who states in his Declaration, under date the 25th of that Month, that he had detained her for having 2 Slaves on board, viz. 1 Man, and 1 Boy; and further that the Master and Crew deserted her, with the exception of 2 Men, 1 of whom had since died from fever.

The Vessel after Capture was taken to Fernando Po, where she was detained until May following, and then sent here for adjudication, with the two Slaves on board, and arrived on the 9th of June 1828. On the 12th of that Month, the Ship's Papers were brought into the Registry and filed, and the usual Monition went forth, returnable on the 21st, on which date it was certified to have been duly executed.

The only Witness produced in this Case, was the surviving Seaman belonging to the Vessel, named Manoel Joaquim, alias James Harry. The Evidence he gave on the Standing Interrogatories proved, that the Master took possession of the Vessel in the Havannah, about 5 Months before Capture, at which Port the present Voyage began and was to have ended; that the only Port or Place the Vessel touched and anchored at, since leaving the Havannah, was the River St. John, or New River; that she only touched there for the purpose of trading in Slaves, in the course of which she was seized, while at anchor, with the only 2 Slaves which had been embarked on board her, the remainder of the Cargo, 150 in number, not having been sent off.

From the Vessel's Papers it cannot be learnt who is the Owner; the Witness examined calls him "Don Vill," a Merchant in the Havannah. The Vessel was furnished with a Commercial Passport, shewing her to be bound for St. Thomas, and with Clearances and other Documents, dated Havannah, the 3d October 1827, and from her Log it appeared that she sailed from thence on the 9th of that Month.

This being, as far as the Evidence went, a clear Case of a Spanish Vessel engaged in the Slave-trade, and seized to the Northward of the Equator, the Court, which met for its adjudication on the 23d of June 1828, had no hesitation in declaring her to have been justly seized and detained, and accordingly condemned the Vessel, together with her Cargo, Tackle, Apparel, and Furniture, as good and lawful Prize to the Crowns of Great Britain and Spain; and the Court further decreed the emancipation of the 2 Slaves found on board her, and that the said Vessel was seized and prosecuted by Captain William Fitzwilliam Owen, and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

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No. 34.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 16, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Emprendador*," Ramon Clavell, Master, condemned in the British and Spanish Court of Mixed Commission established here, on the 14th day of July 1828, when the 3 Slaves found on board her were emancipated.

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sation, a Role d'Equipage, a Port Clearance, and Manifest of the Cargo, all dated at Pointe à Pitre, in Guadaloupe, the 10th and 11th of August last, except the Act of Francisation, which is dated in 1819." He further goes on to state, that "these Papers are proved to have been received at St. Thomas, and to be false, by the testimony of Antonio Barry, William Knight, and Jean Julien, and acknowledged to be so by Mr. Rochefort himself, and that these all state the Vessel herself has not been at the Island of Guadaloupe this Voyage."

On the 17th of April 1828, the Vessel still lying at Fernando Po, Captain Owen issued an Order, in which, after stating that in consequence of the Report made to him by the Assistant-Surgeon and another Officer of His Majesty's Ship "Eden," "it would be inhuman to suffer all the Slaves now on board the "Musquito" or "Elizabeth" to proceed on the Voyage to Sierra Leone, and he therefore directed that all the Men and Women Slaves then on board the said Schooner should be landed, and delivered to Captain H. C. Harrison, R. N., the Superintendent of the Works at Clarence, and that the male and female Children under 13 Years of age should be retained on board for the Voyage here." By virtue of this authority, the whole of the surviving Slaves, stated to be 88 males and 36 females, 2 Men having been drowned on the passage from the Place of Capture to Fernando Po), were landed, and it must therefore be presumed that none of them were under the prescribed age.

The Vessel arrived here on the 21st of May 1828, and, on the following day, her Papers were brought into the Registry and filed, and the usual Monition went forth, returnable on the 2d of June 1828, on which date it was certified to have been duly exhibited.

From the Evidence of the Chief Mate, and two other Witnesses examined on behalf of the Captors, (the Master having chosen to remain at Fernando Po), it appeared that this Vessel was owned by one Don Francisco Suler, a Merchant in Porto Rico; that she had 2 Masters, and was furnished with 2 sets of Papers, (French and Spanish), the former calling her the "Elizabeth," and the latter the "Marinheiro;" that the Spanish Master, John Llansana, took the command of the Vessel in Porto Rico, from whence she proceeded, under Spanish Colours, to St. Thomas, to procure the French Papers: she there, also, took on board the French Master, Rochefort, and proceeded to the River Calabar, where she hoisted French Colours, and commenced trading for Slaves, the Spanish Master acting as Supercargo; and further, that the Vessel there took on board the 126 Slaves, with which she was captured, and left behind, in that River, the Spanish Master and Supercargo, with 125 more Slaves, which, although purchased, he would not ship, for fear of being captured. The Evidence of these Witnesses went further to prove, that the Spanish Master, together with the aforesaid Suler, and another Merchant, in the Havannah, were the Owners of the Slaves, which were to have been landed at Porto Rico, or the Matanzas, on their united account: they differed, however, in their Evidence, as to what became of the Spanish Papers, the Chief Mate swearing that they were retained by the Spanish Master and Supercargo, and the other 2 Witnesses that they were made away with on board the Vessel about the time of Capture.

The Court met to adjudicate this Vessel on the 16th of June 1828; and, as the Evidence clearly established her to be a Spanish Vessel engaged in the Slave-traffic to the Northward of the Equator, for the real account, risk, and benefit of Spanish Subjects, unhesitatingly condemned the "Musquito," alias "Elizabeth," for a breach of the Treaty between Great Britain and Spain, and declared the emancipation of the 124 Slaves (or the survivors of them) landed at Fernando Po; and, also, that there were on board the Vessel, when captured, 126 Slaves, the said Vessel having been seized and detained by Captain Owen and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

### No. 33.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

I HAVE the honour to enclose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Feliz Victoria*," condemned on the 23d of June 1828, in the British and Spanish Court of Mixed Commission established here, when the Slaves on board of her were emancipated.

This Vessel, although seized on the 3d of February 1828, did not reach here for adjudication until the 9th of June following, after a delay of upwards of 4 Months, a great portion of which time she was detained by the Captor at Fernando Po, having only left that Island on the 13th of May. Having been abandoned by the Master and Crew, with the exception of 2 men, one of whom died before she was sent here from Fernando Po, the only Evidence to prove that she was engaged in the Slave-traffic, and that the 2 Negroes found on board her were Slaves, was the surviving Seaman, Manoel Joaquim, alias James Harry. From his testimony, however, it was clear, that the Vessel sailed direct from the Havannah to the River St. John, to the Northward of the Equator, for the purpose of procuring a Cargo of Slaves, and that

150 were ready to be embarked, when she was seized at anchor in that River with only 2 of her intended Cargo on board.

I beg to draw your Lordship's attention not only to the circumstance of the Captain in this Case having detained this Vessel for the long period he did at Fernando Po, but also to his having taken out of her, and landed at that Island, the Cargo and Stores she had on board, which were sold under his direction, and the nett proceeds, with 496 dollars found on board the Vessel, and paid into the Treasury at Fernando Po, amounting to £222 5s. 1½d. remitted to the Registrar, in a Bill on the Lords of His Majesty's Treasury. The full particulars of these Sales will be before your Lordship, with the Account Sales of the Vessel, when the Bill in question will also be forwarded.

I have the honour to be, &c.

(Signed) JOHN WM. BANNISTER.

*The Right Hon The Earl of Dudley,*

&c. &c. &c.

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Enclosure in No. 33.

*Report of the Case of the Spanish Schooner, "Feliz Victoria," José Roquer, Master.*

THIS Vessel was seized, on the 3d of February 1828, at anchor in the River St. John, by the Tender of his Majesty's Ship "Eden," with a Boat of His Majesty's said Ship on board her, under the command of Lieutenant Badgley, who states in his Declaration, under date the 25th of that Month, that he had detained her for having 2 Slaves on board, viz. 1 Man, and 1 Boy; and further that the Master and Crew deserted her, with the exception of 2 Men, 1 of whom had since died from fever.

The Vessel after Capture was taken to Fernando Po, where she was detained until May following, and then sent here for adjudication, with the two Slaves on board, and arrived on the 9th of June 1828. On the 12th of that Month, the Ship's Papers were brought into the Registry and filed, and the usual Monition went forth, returnable on the 21st, on which date it was certified to have been duly executed.

The only Witness produced in this Case, was the surviving Seaman belonging to the Vessel, named Manoel Joaquim, alias James Harry. The Evidence he gave on the Standing Interrogatories proved, that the Master took possession of the Vessel in the Havannah, about 5 Months before Capture, at which Port the present Voyage began and was to have ended; that the only Port or Place the Vessel touched and anchored at, since leaving the Havannah, was the River St. John, or New River; that she only touched there for the purpose of trading in Slaves, in the course of which she was seized, while at anchor, with the only 2 Slaves which had been embarked on board her, the remainder of the Cargo, 150 in number, not having been sent off.

From the Vessel's Papers it cannot be learnt who is the Owner; the Witness examined calls him "Don Vill," a Merchant in the Havannah. The Vessel was furnished with a Commercial Passport, shewing her to be bound for St. Thomas, and with Clearances and other Documents, dated Havannah, the 3d October 1827, and from her Log it appeared that she sailed from thence on the 9th of that Month.

This being, as far as the Evidence went, a clear Case of a Spanish Vessel engaged in the Slave-trade, and seized to the Northward of the Equator, the Court, which met for its adjudication on the 23d of June 1828, had no hesitation in declaring her to have been justly seized and detained, and accordingly condemned the Vessel, together with her Cargo, Tackle, Apparel, and Furniture, as good and lawful Prize to the Crowns of Great Britain and Spain; and the Court further decreed the emancipation of the 2 Slaves found on board her, and that the said Vessel was seized and prosecuted by Captain William Fitzwilliam Owen, and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

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No. 34.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 16, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the Spanish Schooner "*Emprendador*," Ramon Clavell, Master, condemned in the British and Spanish Court of Mixed Commission established here, on the 14th day of July 1828, when the 3 Slaves found on board her were emancipated.

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This Vessel was seized by His Majesty's Ship "Eden," on the 11th of June 1828, in Latitude 2. 0. North, and Longitude 8. 30. East, and sent to this Place for adjudication, for having 3 Negroes secreted in her hold. She arrived here on the 28th of the same Month.

From the Evidence filed in the Case, it was established to the satisfaction of the Court, that although these Africans went on board the Vessel at Little Popoe voluntarily, still it was evidently the intention of the Master of her to carry them off the Coast as Slaves; in furtherance of this it was proved that he had quitted that part of the Coast where he was pledged to land these Africans, and, when captured, was at least 450 Miles distant from it.

I beg leave to refer your Lordship to the Report for the full particulars of this Case, which I have felt it my duty to detail very fully for your Lordship's information.

The Master having applied for Copies of the Evidence, the same have been accordingly furnished him.

I have, &c.

(Signed)

JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 34.

*Report of the Case of the Spanish Schooner "Emprendador," Ramon Clavell, Master.*

THIS Vessel, of the burthen of 117 Spanish tons, with a Crew of 39 Persons on her Muster Roll, and a Clearance, dated the 18th of March 1828, left the Havannah on the 30th of that Month, being also furnished with a Passport and other Papers, dated the 14th of the same Month, shewing her to be bound for the Islands of Princes and St. Thomas, on this Coast.

On the 11th June 1828, being then in or about Latitude 2. 0. North, Longitude 8. 30. East, this Vessel was seen from His Majesty's Ship "Eden," commanded by Captain Owen, who certifies, that she was then about 14 Miles to the South-West of His Majesty's Ship, and in company with a Schooner, that His Majesty's Ship chased the said Vessel "Emprendador" from that time until about 2 P. M. on the following day, when she was boarded, and found to be from the Havannah bound to Princes Island.

Captain Owen further certifies, as his reasons for detaining this Vessel, that, on searching her, 3 Negroes were found secreted in her hold, and that her Cargo had apparently been taken by plunder, as she had no Manifest of it, nor any notice taken of it in her Port Clearance, and, moreover, that she was fully equipped with a Slave-deck, Slave-boilers, irons and water-casks for a Slave-cargo.

This Vessel after Capture was conducted to Princes Island, at which Place the 3 Slaves found secreted on board her, were, by direction of Captain Owen, removed to His Majesty's Ship "Eden" for the passage here, and as stated, "for greater security and to prevent their being tampered with by the Spanish Master.

She arrived in this Harbour for adjudication, in charge of Lieutenant Robinson, of His Majesty's said Ship, on the 28th of June 1828, and on the 30th following, her Papers were brought into the Registry and filed, and the Monition, citing all Parties to appear, issued, returnable, on the 7th of July 1828, on which date it was certified by the Marshal to have been duly executed.

On the 5th of July 1828, the Master, Ramon Clavell, filed a Claim for the Vessel, and about one half of the Cargo on board her, as the property of Salvador Felice, an Inhabitant of the Havannah, in Cuba, and for the remaining half of the Cargo, as the property of him, the Master, and, in his Attestation, in support thereof, set forth, "that at the time of the Capture of the Vessel, there were on board 3 Free Africans, one being a Native Pilot, one the Son of the Chief of a part of the Coast, who had come with the Cane or Insignia of the said Chief, with a message unto this Deponent, and the other a Relative to the said Messenger; the Pilot spoke English, the Messenger Portuguese, and the Lad spoke no other language than that of his Country. That this Deponent never made any trade unless for a few fowls and cassada, with 5 handkerchiefs for the use of the said Vessel; that the Chief, who had sent the aforesaid Messenger on board, had sent as a present unto this Deponent, a sheep and a few fowls, and that no Slave or Slaves were at any time received on board the said Brigantine during her said Voyage."

The Witnesses examined in this Case, on behalf of the Captors, were the Master, the Carpenter, and a Seaman of the Vessel, on the Standing, and on Special Interrogatories, as also 2 of the Slaves on the latter; and on the part of the Claimant, the 3 Slaves were examined on Special Interrogatories, put with permission of the Court.

The Evidence of the Master, in answer to the 2d, 7th, 11th, and 13th Standing Interrogatories, went to prove, "that he, himself, and the Chief Mate, named Salvador Felice, were the Owners of the Vessel and Cargo, with the exception of a small Venture of one of the Officers, and that he, the Master, appointed himself to the command of her, in the Havannah, about 4 Months ago, the said Chief Mate, Salvador Felice, giving him the possession, and also that the said Cargo was

to be delivered at Princes Island, or St. Thomas, for the real account or risk of them, the said Owners, and no others.

This, however, is contradicted by the Evidence of the Carpenter, on the 4th, 11th, and 12th Standing Interrogatories, wherein he states, "that Don Francisco Rowsay, of the Havannah, is the Lader and Chief Owner of the Vessel and Cargo, (which is owned by a Company,) and that he, Francisco Rowsay, appointed the Master to the command of her, and delivered the possession to him." The Evidence of the Seaman on these points, (who seems to know very little respecting the Voyage,) merely went to prove that the Vessel and Cargo were owned by several persons in the Havannah, whom he knew by sight, but not their names, and that they appointed the Master to the command of her.

The further Evidence of these Witnesses, on the Standing Interrogatories, went to prove, that the Voyage of this Vessel commenced at the Havannah, and was to have ended there, that in the course of it she touched at the Gallinas, Little Popoe, and Petit Bassa, and they all agree in declaring that no Slaves had been taken on board the Vessel during the present Voyage, although the Carpenter and Seaman acknowledge that 3 Negroes were received on board at Little Popoe, whom the former swears the Master told him were Pilots, and that when the Capturing Ship was seen, he, (this Witness, the Carpenter,) by the Master's direction, confined the said Negroes forward, by nailing down the forehold.

The Master, in answer to the Special Interrogatories, swears "that the Vessel was bound from the Havannah to Princes Island and St. Thomas, and that he touched at the Gallinas, and the other Places, sworn to in reply to the Standing Interrogatories, to purchase fresh provisions; that at Popoe he received on board 3 Africans, viz. one a Pilot to take the Vessel to Onim, (this man, he adds, did not know the Compass, but was guided by the Land,) the second a Son of the King of the former Place, and the third his little Brother; those 3 Africans, he states, were below when the Capturing Ship's Boat boarded, but that he did not give any orders respecting their being secreted or confined; on the contrary, that they themselves, at the time of Capture, asked to go below, and did so of their own will and accord, but he does not know for what reason.

He further swears "that there were coppers on board the Vessel, but that he does not know that they were for cooking for Slaves, having found them on board, as well as some irons for confining such of the Vessel's Crew as might behave ill, the number of which he does not know, and he adds, that the List, containing a description of his Cargo, (found amongst the Papers,) is the only Document of the kind received from the Customs at the Havannah."

The Carpenter, in answer to the Special Interrogatories swears "that he does not know what course the Vessel steered, but that they did not steer direct for St. Thomas, and that the first Land made on the Coast was the Gallinas, at which Place she touched, and for no other reason, that he knows of, but to get fresh provisions, in consequence of the Crew grumbling for want of such, but that the quantity being small, (some fowls and goats,) a further supply was required, and the Vessel, therefore, took provisions on board at Popoe."

This Witness also further swears "that he had not the slightest knowledge what the Vessel's Homeward Cargo was to consist of, as he and the Crew had nothing to do with it; nor had he seen any coppers on board, but had heard there were some; he had seen irons on board, but he does not know the number: they were in a box, in the Cabin of the Vessel; he further swears, after stating that the 3 Africans on board were treated very well, "that when the Capturing Ship was near to them, he (the Witness) was ordered by the Master to put them (the Africans) below, and fasten the Hatch over them, which he accordingly did, in the fore part of the Vessel."

The Seaman, in answering the same Interrogatories, swears "that the Vessel received her Cargo on board at Casa Blanca, in the Harbour of Havannah, where Guinea-men usually load, and that from the Havannah they steered as the winds permitted, but not direct for St. Thomas; and, after swearing that the Vessel had an abundance of salt provisions, but no fresh, he corroborates the testimony of the Captain and Carpenter, as to the Vessel's touching at the Gallinas, at which Place, however, he says no provisions were taken on board, although yams were received at Popoe, and some goats and fowls at Petit Bassa;" he further swears "that there were Slave-coppers and irons on board the Vessel, and of the latter he supposes 130 or 140 pairs," and in conclusion, this Witness fully corroborates the Evidence of the Carpenter, as to the 3 Africans being secreted and confined below, by order of the Master, at the time of Capture.

The Evidence of the 3 Africans, on the Special Interrogatories of both Captor and Claimant, went to prove that two of them, Jack and Messah, were Free Men, and Sons of the Head Man of Popoe, and that the third (the Boy) was a Slave of their Father; and, further, that Jack, who is a Fisherman by trade, went on board this Vessel at Popoe, to conduct her to Lagos, because the Master "did not know the path," and for which service the Master was to pay him; he was accompanied by his Brother and the Boy, the former, who understands Portuguese, as an Interpreter between him (Jack) and the Master, and the latter (the Boy) to learn Portuguese. The Evidence of the 2 free Africans, on the Special Interrogatories on the part of the Captor, went also, distinctly to prove that they did not hide themselves below of their own accord, (and one of them (Jack) very appositely adds, that he had no occasion to hide himself, as he was not afraid, not being a Slave, but an Englishman), but that, they then being on deck, the Spanish Master made them go below, to which they objected, Messah saying, "they were not Slaves, and did not want to be secreted;" the Spanish Master, however, told them they must do so, because if they did not, "when those people" (meaning the Capturing Ship then near to the Vessel) "come see them, they say they were Slaves, he (the Spanish Master) go buy." This Witness (Messah) further adds, in answer to one of the Special Interrogatories, "that he has heard the Portuguese have an Island called Princes, living in the middle of the water."

Before reverting to the circumstances which influenced the decision of the Court in this Case, it will be necessary to take a retrospective view of some parts of the Evidence, and to make a few remarks on it. The avowed object, as appears by the Vessel's Papers, on her leaving the Havannah, was simply a Voyage to the Islands of Princes and St. Thomas, in the lawful commerce of this Coast, yet, from the Evidence of the Carpenter and Seaman, it is shewn that the Vessel's course was not steered direct for those Ports, but, on the contrary, that the first land made on the Coast

was the Gallinas, at which Place the Vessel touched, as well as at the Anchorages of Petit Bassa and Little Popoe; and here it is necessary to observe, that the excuse for so doing, appears most frivolous, as well from the small quantity of fresh provisions (there being abundance of salt on board) said to have been received on board at those Places, with reference to the number of the Crew, as to the loss of time it must have occasioned; the circumstance, however, of a part of the Coast being made, so distant from the stated destination of the Vessel as the Gallinas, in the Neighbourhood of this Colony, further serves to shew that other purposes than the mere obtaining a few fowls and yams, led to the Vessel's anchoring at that Place, noted as a Spanish Slave-haunt, as well as to her proceeding onwards to Little Popoe, and the more frequented Slave Factories in the Bight of Benin.

In the Bight of Benin the Vessel first anchors at Little Popoe, where she receives on board 3 Africans; and, from the Evidence of these Persons themselves, it is clear that their so embarking was voluntary, and with a view to their own advantage; it is, however, equally satisfactorily proved from the Evidence of 2 of them (the third not having been examined to this point), that they could not have contemplated being taken to Princes Island or St. Thomas; they both distinctly state where the Vessel was said to be going to, and both are indeed ignorant where such Islands exist; one of them (Messah) does say he has heard that the Portuguese had such an Island "living in the middle of the Water," but it never can be inferred from their Evidence, that they embarked under any other impression or belief than that they were to be landed at Onim or Badagry.—There is some discrepancy on the part of the Master, in his Evidence as to the designation of these Africans; but this is of little importance in comparison with his unblushing effrontery in repeatedly swearing, that he did not give any orders respecting their being secreted or confined; but that, on the contrary, they went below of their own free will and accord, when the opposite is so positively sworn to by all the other Witnesses; it, however, only serves to shew that this Man, having (as he evidently finds he had) been guilty of an act, which *prima facie* shewed his real intentions with respect to these Africans, is capable of even perjury to make the contrary appear in Evidence; his further Testimony, also, that he did not know the coppers were for cooking for Slaves, and that he was unacquainted with the number of irons on board (which were merely for confining such of the Crew as behaved ill), is further illustrative of his disinclination to tell the truth—he does not, however, attempt to deny that such were on board; and the Seaman supplies the deficiency, by swearing, that there were 130 or 140 pairs of the latter kept in a Box in the Cabin, and consequently in constant view of the Master; if, after this, additional proof of his little regard to truth were required, it is to be found where he swears, that the List of his Cargo, found on board the Vessel, was the only Document respecting it, delivered to him by the Customs at the Havannah, when the same is a mere dirty piece of Paper, without any Signature, which evidently had never emanated from any Authority; and, in fact, from there being no mention of Cargo in the Clearance of the Vessel, there is great probability it was clandestinely shipped or procured.

Looking, therefore, at the Evidence altogether, no doubt can exist that the object of this Vessel was to prosecute the Slave-trade, and that to the Northward of the Equator; and that her clearing for Princes and St. Thomas, was to conceal the real object of the Voyage, while it gave to the Master the advantage of availing himself of the use of those Ports (alike open to the Slave-dealer as the legal Trader), should untoward circumstances render it necessary. The equipment and conducting of the Vessel most distinctly shew this to be the case, for it is absurd to believe that 130 or 140 pairs of shackles were on board, for the purpose of coercing a Crew of 39 persons; or that she, being a Merchant Vessel, would be furnished with useless coppers; in fact, the very circumstance of the number of her Crew, is sufficient to shew that the innocent Commerce of this Coast was not her object, while her sailing from Slave-haunt to Slave-haunt, instead of prosecuting her avowed Voyage, is further conclusive of it. Strong, however, as such proof may be, it is not sufficient, in the contemplation of the Treaty between Great Britain and Spain, to warrant the condemnation of a Vessel so circumstanced, although it cannot fail to excite strong suspicion of the object of Parties, so engaged, in embarking Africans on board their Vessels, under any circumstances or pretence whatever. In this Case, therefore, although there is no doubt of the Negroes, found secreted in the Vessel, having gone on board of their own free will and accord, still it is not the less clear that the Master, having thus got them within his power, intended to take them off the Coast as Slaves; his real intention, indeed, cannot be doubted, when it is seen that, instead of proceeding to Onim or Lagos, at one of which Places he had pledged himself to land these Africans, he steers away from the Coast, and, when captured, is in the Neighbourhood of Princes Island, distant at least 450 Miles from the Port he pretended to be bound for on leaving Little Popoe; and which deviation he has not attempted to account for, or explain, in any manner whatever. The consciousness of his intention to convert these unfortunate persons into Slaves, is further evident from his desire to conceal them at the time of Capture; for it never can be believed that, if his object had been to restore them to their friends, that he would have ordered them to be confined below, against their own inclinations, knowing as he must, from their superior intelligence, that they would have fully satisfied any enquiries as to their being Free Persons on board his Vessel; the fact would rather appear to be, that he had his doubts, whether they would not at once have gone forward to the Officer who might board from the Capturing Ship, and complain of his (the Master's) breach of faith in having thus taken them from the Coast, when it was expressly understood, on their embarking, that he was to land them at some friendly Port not very distant from their own Town, and from which opportunities offered for returning to their friends. The opinion here formed of the intention of the Master, with respect to these Africans, may, perhaps, be doubted, from a consideration that it would have the effect of preventing his carrying on his intended Trade on that part of the Coast from whence he had taken them, and which is well known to be common to the Slave-traffic. In this instance, however, this does not appear to have much weight, as, from the Vessel leaving those Ports on the Coast, in the Bight of Benin, it was most likely the Master's intention to proceed to some other Point where the circumstance would be unknown, and very probably into one or other of the large Rivers in the Neighbourhood of Princes Island; and here it may be observed, that dis-



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appointment at not being able to make trade at Little Popoe, or some other imaginary grievances, might have influenced the Master of a Vessel, so illegally conducted as this was, in thus kidnapping these unfortunate People; more particularly when the suspicious character of the Individual concerned, and the little regard to moral feeling, which he has shewn in giving his Evidence, is considered.

This, therefore, being the view of the Case, as taken by the Court, which met for adjudication on the 14th of July 1828, the Vessel was accordingly condemned for a breach of the existing Treaty between Great Britain and Spain, in having taken on board, to the North of the Equator, 3 Africans, for the purpose of the Slave-traffic; together with her Guns, Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board her, as good and lawful Prize to the Crowns of Great Britain and Spain. The Court further decreed the emancipation of the said 3 Slaves, and that this Vessel had been seized and prosecuted by W. F. W. Owen, Captain, and the Officers and Crew of His Majesty's Ship "Eden."

(Signed) JOHN WM. BANNISTER.

# SIERRA LEONE. *(Portugal and Brazil.)*

No. 35.

*His Majesty's Commissioners to The Earl of Dudley.—  
(Received January 18, 1828.)*

MY LORD,

*Sierra Leone, December 13, 1827.*

WE have the honour to enclose, herewith, the Report of the Case of the *Brazilian Schooner "Dianna,"* condemned in the British and Portuguese Court of Mixed Commission, on the 8th day of December 1827, for being engaged in the illicit Traffick in Slaves.

This Vessel was seized, in Latitude 2. 15. North of the Equator, Longitude 4. 14. East, having at the time on board 87 Slaves, by His Majesty's Ship "Sybille," Commodore Francis Augustus Collier, C.B. Commander, and arrived in this Harbour, with the loss of only 3 of the Slaves, on the 3d of November 1827.

We beg leave most respectfully to refer your Lordship, for the full particulars of this Case, to our Decision, which embraces every material part of the Evidence, observing that it was most painfully contradictory, as shewing the little regard of a solemn oath on the part of the Persons engaged in the illicit Slave-traffick, while it was necessarily extended beyond what is usual in such Cases, from the desire the Court had to arrive at the truth of the conflicting testimony of the Witnesses, some of whom, and among them the Master and Mate, swearing that the Slaves were shipped in the River Zaire, or Congo, within the limits defined by the Treaty, to the Southward of the Equator, and the Slaves and some of the Crew declaring, that the Africans on board her were shipped in the River Benin, to the Northward of the Line.

The 83 Slaves in existence at the time of the condemnation of the Vessel, 1 having died after being landed, were emancipated at the same time by the Court.

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,  
&c. &c. &c.*

Enclosure in No. 35.

## *Report of the Case of the Brazilian Schooner "Dianna," Thomé Guedes Pinto de Vasconcellas, Master.*

THIS Vessel was furnished with a Passport, numbered 497, dated Rio de Janeiro, the 20th of March 1827, stating her to be bound to the Ports of the River Zaire, and Cabinda, from whence she was to return to Rio Janeiro, and authorising her to carry 327 Slaves.

On the 12th of October 1827, being then in Latitude 2. 15. North of the Equator, with 87 Slaves on board, she was detained by reason of being employed in the Traffick in Slaves, contrary to the existing Treaties between Great Britain and Portugal, by His Majesty's Ship "Sybille," Commodore Francis Augustus Collier, C.B., Commander, who stated in his Declaration, that the Master, Thomé Guedes Pinto de Vasconcellas, declared her to be bound from Molembo to Rio Janeiro, but that part of the Crew and the Slaves declared they came from the River Benin.

The Vessel arrived in this Harbour on the 3d of November 1827, in charge of an Admiralty Mate of His Majesty's Ship, having only lost 3 of the Slaves by death, on the passage; owing, however, to the illness of the Officer in command, the Papers, amongst which there was no Log to the Court, were not brought into Court, and authenticated, until the 8th of the Month; on the following day, the 9th of November, the usual Monition went forth, and was returned, certified to have been duly served on the 19th.

In this state of the proceedings, and on the 10th of November, it was represented to the Court by the Medical Officer, that sickness had appeared among the Slaves, and that it was therefore desirable they should be landed; such permission was accordingly given, the Liberated African Department having consented to receive them, to be kept in their character of Slaves pending adjudication.

On the 14th of November, the Master filed his Claim for the Vessel, her Tackle, Apparel, and Furniture, and her Cargo, as the sole property of José Bothelho de Sequeira Mathos Araujo and Company, Inhabitants of Rio de Janeiro, and in his Affidavit, in support of it, set forth that the Africans on board her were purchased and shipped in the River Congo, or Zaire, in Latitude 6° 6' South of the Equator, from which River she was conducted to Molembo, for the purpose of enabling him, the Deponent, to communicate with the Master of a Brazilian Vessel there lying at anchor; and that the Vessel being found to the Northward of the Equator was owing to the strength of the Currents, and to his being seized with fever on the 9th and 10th day after setting sail from Molembo, and continuing ill until the time of Capture, and to the Pilot or Mate being confined to his Cabin by severe ulcers on his right foot; which latter circumstances were the cause the Vessel was not properly conducted, but left entirely to the management of the remainder of the Crew, none of whom were Nautical Men, or capable of properly Navigating the Vessel.

To corroborate this Affidavit, the only Witness produced by the Claimant for examination was, José Guedes Pinto, said to be a Passenger on board, and calling himself the Claimant's Son. His testimony mainly corroborated that of the Master, Mate, and the Cook, who had been previously examined on the Standing Interrogatories on the part of the Captor, except in the name of the Town where the Slaves were shipped, which the Master and Mate denominated Congo Grande, and this Witness called Bomi.

The Evidence of the Master, Mate, Cook, and the Witness produced by the Claimant, went to prove, that the present Voyage commenced at Rio de Janeiro, and was to have ended there, and that the Slaves on board were shipped in the River Zaire, or Congo, while the Evidence of 4 of the Slaves, confirmed by the subsequent Examination of the Carpenter, and another Person on board the Vessel, was equally distinct as to the Slaves having been taken on board in the River Benin. As detailing this contradictory Evidence is not necessary to the Case, the Court having, in its decision, alluded to every important point of it, it will be only requisite to remark, that a Petition of the Claimant's Proctor, to reject the Evidence of the Slaves, was refused, as well as the request for their being examined in open Court, although permission was granted to him to put such Questions to them through the Registrar under the usual direction, as he might desire, but which, with a similar leave obtained to put certain Interrogatories to the Carpenter and the other Witness, who corroborated his Evidence, the Proctor did not avail himself of, although reminded so to do by the Court before taking the Case into consideration.

Owing to the number of Witnesses to be examined, and the mass of Evidence brought forward, the Case was not closed until the 1st of December 1827, when the Court was petitioned, on behalf of the Captor, for a day of trial, which being fixed for the 8th of the Month, and the Court having met, and heard the Arguments of the Proctors for and against the condemnation of the Vessel, delivered the following Decision;

This is the Case of a Vessel, which, under Brazilian Colours, and furnished with an Imperial Passport, authorizing her to take Slaves from the River Zaire and Cabinda. Places to the Southward of the Equator, was detained, with 87 Slaves on board, by His Majesty's Ship Sybille, in Latitude 2° 15' North of the Line.

The defence set up, is, that she was engaged in the lawful Traffick in Slaves, in conformity with the Treaty and Convention between Great Britain and Portugal, having shipped the said Slaves within the limits defined by the Treaty to the Southward of the Equator, and, as such, her restoration is claimed with Costs, Damages, and Expences.

The Convention under which the Claimant petitions for the restoration of the Vessel and Cargo, expressly states, in the 5th Article of the Instructions for the British and Portuguese Ships of War, employed to prevent the illicit Traffick in Slaves, "That, with regard to all Slave-ships detained to the North of the Equator, the proof of the legality of the Voyage is to be furnished by the Vessel so detained." The Place of Capture being, therefore, in the proscribed Latitude, the burden of the proof of the legality of this Voyage rests upon the Claimant. The Court will, therefore, first consider the Evidence which goes to support this Claim.

The Master, Mate, Cook, and the Person alleged to be a Passenger on board, in their answers to the Interrogatories, all agree in saying, that the Vessel sailed direct from Rio de Janeiro to the River Zaire, or Congo, from which Place the Slaves were taken on board of her; and they further corroborate one another in the number being about 100. The Evidence of the Master and the Mate, however, is at variance with that of the Cook, as regards the number of deaths; the two first swearing that 13 died before Capture, and the latter only 2. There is also a further discrepancy in the Evidence of the Witnesses, as regards the Vessels going to Molembo, the Cook contradicting the testimony of the other three, he saying that the River Zaire was the only Place the Vessel touched at during the Voyage; and certainly, had she been at anchor at Molembo, as is asserted by them, for some hours, he (the Cook) must have known that circumstance. Another no less remarkable variation, in the swearing of these Witnesses, is found in the name of the Town, at which the Slaves are said to have been embarked. The Master and Mate, in answer to the Special Interrogatories put by the Captor's Proctor, by permission of the Court, calling it Congo Grande, while the evidence of the Passenger makes it to be a Town called Bomi; this, with the apparent ignorance of the Cook on this point, after being, as appears by the Evidence, nearly 5 Months in the River, is materially against the veracity of the Master and Mate.

To support these assertions, however, no Log-book of the Voyage from Rio Janeiro to the River Zaire is produced; and the Master, when questioned on this point, says, "it got wet, and spoiled, and he tore it up:" this the Mate in some measure contradicts; for, although he admits it was torn up for waste paper, he says nothing whatever of its getting wet; yet both most distinctly swore, in answer to the 17th Standing Interrogatory, "That no Papers, Bills of Lading, Letters, or other Writings, were torn, thrown overboard, destroyed or cancelled, concealed, or attempted to be concealed." Next to the Passport or Register of a Vessel, the most important

Paper is the Log. It is of paramount consequence to any Vessel, to shew the innocence of the Voyage in which she is engaged; and, in this Case, it would have been the most satisfactory Document that could have been produced in support of the Claim; its non-existence must subject the Parties to all the suspicion arising from its non-production to bear out the testimony of the Witnesses, whose Evidence being, therefore, unsupported, and the discrepancy on many points considered, creates well-founded suspicions of its truth; for, allowing the Log got wet, could it not have been dried? or wherefore, if fraudulent actions were not to be concealed, was it destroyed?

The production of the paper writing in pencil, which states it to be a Log from the Zaire to Rio Janeiro, cannot but be most suspiciously considered, and the Evidence given by the Witnesses respecting it, impresses the Court with a strong conviction of its falsity; on examining this Paper it will be found that there is no distance marked in any one of the day's work in it, and one day's work (the 9th, when the Vessel must have been close in with the Island of St. Thomas,) is omitted entirely, although it is evident the calculations are made by dead reckoning. The winds appear therein to have been from West to South West, and the course West North West, which took her deep into the Bight of Benin, passing close by the Island of St. Thomas, and to windward of Princes, both of which (on laying the course and distance off on the Chart,) she could most readily have fetched.

Had this Vessel, indeed, actually sailed from the Zaire, would she not have stretched away to the Southward from that River? for having the wind, on the day she sailed from the West, she could have done so free, which would have been as good a course as could have been steered for Rio de Janeiro, where she was bound.

That this Log is fictitious, there is, indeed, strong proof. The Master swears it was commenced on the 3d of October, the day the "*Dianna*" left the Zaire, the Mate who kept it, swears it was on the 1st of October, which makes it perfectly evident, that they neither knew which day positively to fix for its beginning, thereby convicting themselves, and this gains additional strength, for, on referring to that Paper itself, it will be seen that it begins on the 4th of November, exactly 1 Month subsequent to their departure. That a mistake might happen of inserting one month for another, for one day may be very probable, and had it been for one day only, it would have that appearance, but unfortunately for the Claimant, the Mate appears to have been in such a hurry to get it done, that, with the exception of the 2d day of the Voyage, in which he has inserted "8 bre," the Month is stated throughout to be November. This, therefore, together with its being written in pencil, and the very frail excuse given for this unknown practice, (of the Master and Mate being too ill to hold a pen,) can leave no doubt of its being false, and prepared for production in the event of Capture.

The Master in his Affidavit in support of the Claim, in accounting for the circumstance of his being to the Northward of the Equator, says, "He got ill 9 or 10 days after leaving Molembo, which, together with the Mate being confined to his Cabin by severe ulcers on his right foot, were the causes the Vessel was not properly conducted, but left entirely to the management of the Crew, none of whom were nautical men, or capable of properly navigating the said Schooner, and, added to the strength of the currents, occasioned the said Schooner to be found at the time of Capture to the North of the Equator." Admitting this Affidavit, deliberately drawn up, under the direction of his Legal Adviser, to convey the meaning of the Master, it would appear that, as the Vessel was seized on the 8th day after leaving Molembo, his illness must have commenced after Capture, and consequently disproves his assertion, that he was prevented from navigating the Vessel. The Court, however, having in evidence that the Master was ill when the Vessel was captured, cannot reconcile this contradiction, and will, therefore, only remark, that admitting the reasons assigned, it appears quite clear, from the shewing of the produced Log, that the Master and Mate must have been aware of the Vessel's daily proceeding to the Northward, although, with the other Witnesses, they swear, in reply to the 9th Standing Interrogatory, "that the Vessel was constantly directed towards her destined Port, Rio de Janeiro, and they might, therefore, have ordered measures to prevent it.

The Master further swears, that the reason of his having so few Slaves on board, when his Passport authorizes his taking in 327, was, that he had but a small quantity of goods on board, and the Slaves at that Place were very dear, and yet at the very time of stating it, he being then under examination, he produced the Invoice of Goods and Merchandise laden on board the Vessel, which amounted to 29,331 Milreis, equal to, if not more than £6,500, and taking the average of each Slave received for that amount, it would be £65, or 300 Milreis, a sum more than each Slave would sell for in the Brazils, and, when it is well known enormous profits are realized by slaving, cannot for one moment be entertained. The Mate accounts otherwise, for, after asserting that the Slaves were very dear, he says, the remaining Cargo was not adapted to the Trade.

Under these contradictory circumstances, the absence of the outward-bound "Log," and the fraudulent appearance of the one produced, (loose sheets of paper, written in pencil), the Court do most decidedly pronounce, that the Claim is left unsupported by that due proof and specification required; indeed, it is a remarkable circumstance, that notwithstanding the permission of the Court was obtained to put Interrogatories to some Witnesses on the part of the Claimant, he only has availed himself of the Evidence of the alleged Passenger, who contradicts the assertions of the Master and Mate, whose Witness he is, on the important difference in the name of the Town where the Slaves were shipped.

The Court will now consider the further Evidence which has been filed in this Case on behalf of the Captors, in support of the Declaration of the Seizing Officer, that the Slaves were shipped in the Benin.

Slaves, themselves, although brought here in the most abject state of wretchedness and woe, have still their recollections from whence they came, where they were shipped, and other particulars, which lead to the disclosure of the truth, and the Claimant and his Witnesses in this Case, having pertinaciously adhered to their coming from the River Zaire, the Court was petitioned to allow some of the Slaves taken on board this Vessel to be interrogated on that important point, and, in doing so, considered it a justifiable mode of ascertaining the fact, when every other circumstance in the Case went strongly to prove that the "*Dianna*" was illicitly

engaged. Nor can the Court consider the testimony of these Slaves at all inadmissible, from the fact that it was impossible for them to know what effect it would have, and therefore their Evidence was much more unobjectionable than that of the Master and Mate, both of whom, in addition to the general interest they must have in this Decision, having, from their own confession, Slaves and isory on board, were consequently interested Witnesses. Four of the Slaves were therefore examined, in the absence, from illness, of the Registrar, by a Sworn Examiner, in the presence of the Commissioners, separately, and by different Interpreters, nor was one allowed the opportunity of hearing what another said, so that no collusion could possibly occur among them. Their testimony, beyond all doubt, proves, "that the Slaves on board this Vessel were shipped in the River Benin, some from a Town called Bobee, and others from one further up the same River, called Arobo, both of which Places may be observed on the Chart, and the former bearing almost the same pronunciation as the Town named by the alleged Passenger in his Examination, and being situated on the right bank of the River, as Congo Grande is asserted to be by the Master. They all concur in the same points, that the Vessel was only 5 or 6 days at Sea previous to Capture, that she got aground on the Bar, coming out of the River, that the Vessel touched at no Place after leaving the Benin, (which is also confirmatory of that part of the Cook's Evidence,) that two bullocks had been taken on board in the Benin, and that fresh beef was on board at the time of Capture, while 3 out of 4 Slaves say, that only 3 of their Comrades died before Capture, (the 4th not knowing how many,) which also agrees more nearly with the Cook's testimony on that head, than the Evidence of the Master and Mate.

Had no other testimony been produced than what has already been stated, it alone would have been sufficient to pronounce the "*Dianna*" a legal Capture, but fortunately for the ends of Justice, and highly satisfactory to the Court, the Case has been rendered clearer by the Evidence of Joao Jambom, Carpenter, and Joseph Gremont, also belonging to the Vessel, whose Statement, on oath, to the Interrogatories, of the illicit transaction in which the "*Dianna*" was engaged, corroborates that of the Slaves, as to their having been shipped in the River Benin, to which River the Vessel steered direct from Rio Janeiro, and confirms the other particulars given by the Slaves, in a manner amply sufficient of that fact; added to which, their Evidence, as relates to certain Papers, with a shot being sewed up in a bag, during the Chase, would leave little doubt that the real Log was disposed of by being thrown overboard. The Court is, therefore, of opinion that the "*Dianna*" was legally detained, and that the Slaves on board her were shipped to the Northward of the Line, that is to say, in the River Benin, and do consequently condemn the "*Dianna*," her Tackle, Apparel, and Furniture, as good and lawful Prize to the Governments of Great Britain and Brazil, and emancipate the surviving Slaves, 83 in number, declaring that at the time of Capture, there were on board 87 Slaves, and that the said Schooner, "*Dianna*," was so seized by His Majesty's Ship "*Sybilie*," Commanded by Francis Augustus Collier, C. B. Commander.

(Signed) JOSH. REFFELL.  
WM. SMITH.

## No. 36.

*The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, February 27, 1828.

I HEREWITH transmit to you, for your information and guidance, 6 Copies of the Convention, which was concluded at Rio de Janeiro on the 23d of November 1826, between His Majesty and The Emperor of *Brazil*, for the Regulation and final Abolition of the African Slave-trade; and 6 Copies of the Act, which was passed in the 8th Year of the Reign of His present Majesty, for carrying the said Convention into effect; as well as 6 Copies of the Act, which was passed in the 58th Year of the Reign of His late Majesty George III., for carrying into effect a Convention between His Majesty and The King of *Portugal*, for preventing illegal Traffick in Slaves,

I am, &amp;c.

*His Majesty's Commissioners.*

(Signed) DUDLEY.

## No. 37.

*His Majesty's Commissioners to John Backhouse, Esq.—(Received March 10.)*

SIR,

*Sierra Leone, January 5, 1828.*

IN pursuance of the 75th Clause of the Act, passed in the 5th Year of the reign of His present Majesty, entitled "An Act to amend and consolidate the Laws relating to the Abolition of the Slave-trade," and in conformity with the Instructions received from Mr. Secretary Canning, we beg leave to enclose, in Duplicate, a Return of all the Cases of *Portuguese* Vessels, adjudicated in the British and Portuguese Court of Mixed Commission, established here, from 1st day of July 1827, to the 1st day of January 1828.

We have the honour to be, &amp;c.

John Backhouse, Esq.  
&c. &c. &c.

(Signed)

JOSH. REFFELL.  
WM. SMITH.

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## Enclosure in No. 37.

*Return of Portuguese Vessels adjudicated by the British and Portuguese Court of Mixed Commission established at Sierra Leone, from the 1st day of July 1827 to the 1st day of January 1828.*

Name of Vessels.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the Proceeds remain.
Copioba . . . . .	May 15, 1827 . . . . .	{ Sumacca and Cargo of Mer- chandize . . . . . }	{ George Matson, H. M. B. Clinker }	July 20, 1827 . . . . .	{ Condemned for being irregularly licensed to call at Guinea Coast, on the Coast of Africa, in her Imperial Passport, marked No. 6, dated Bahia, the 8th of February 1827, which said Imperial Passport made it obligatory upon her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil, and having been captured to the North of the Line, at a Place called Otoco, with the greater part of her Cargo landed in barter for Slaves . . . . . }	{ The Sumacca and Cargo sold by publick auction, and Proceeds paid into the Military Chest. }
Toninha . . . . .	June 18, — . . . . .	{ Schooner and 65 Slaves . . . . . }	{ Septimius Arabin, H. M. S. North Star . . . . . }	July 21, — . . . . .	Condemned for being engaged in the illicit Traffick in Slaves . . . . .	{ This Vessel was sunk, having unfortunately got foul of the Colonial Steam-vessel "African," whereby the Schooner and her Cargo were lost. }
Henriqueta . . . . .	Sept. 6, — . . . . .	{ Brig and 569 Slaves . . . . . }	{ F. A. Collier, C. B. H. M. S. Sybille. }	Oct. 29, — . . . . .	Condemned for being engaged in the illicit Traffick in Slaves . . . . .	{ The Brig and Cargo sold by publick auction, and the Proceeds paid into the Military Chest. }
Dianna . . . . .	Oct. 12, — . . . . .	{ Schooner and 87 Slaves . . . . . }	{ F. A. Collier, C. B. H. M. S. Sybille. }	Dec. 8, — . . . . .	Condemned for being engaged in the illicit Traffick in Slaves . . . . .	{ The Schooner and Cargo sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale,--the Accounts notwithstanding yet been returned into the Registry. }

*Mem.*—The Proceeds of the Sale of the Schooner "Independencia;" Brigs "Conceicao de Marie," "Silveirinha," and "Bahia;" Brigantine "Creola;" and Sloop "Conceicao Paquete do Rio;" reported in the last Returns as being in the hands of the Commissioners of Appraisement and Sale, have since been paid into the Military Chest. There were no Proceeds, after Payment of the Contingent Expenses, in the Case of the Schooner "Trez Amigos," reported in the last Return.

(Signed) JOSH. REFFELL.  
WM. SMITH.

## No. 38.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 10.)*

MY LORD,

Sierra Leone, January 8, 1828.

WE have the honour to acquaint your Lordship, that, owing to some unaccountable neglect in the delivery of the Mail, on the part of the Master, (who is since dead) of the Merchant Ship "Surry," which Vessel arrived here on the 4th of November last, your Lordship's Despatch, dated the 31st of August, with its Enclosure, was only received by us Yesterday.

We beg to assure your Lordship, that the approbation of His Majesty's Government, as conveyed in that Despatch, of the construction we put on the Compacts between Great Britain and *Brazil*, in the Cases of certain *Brazilian* Vessels therein referred to, and which led to their condemnation in the Mixed British and *Portuguese* Court established here, has been most gratifying to us, and that we shall continue, in such future Cases as may come before us, to be guided in strict accordance with the spirit of the Contracts between the two Governments.

We have the honour to be, &amp;c.

(Signed) JOSH. REFFELL.  
WM. SMITH.The Right Hon. The Earl of Dudley,  
&c. &c. &c.

## No. 39.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 26.)*

(Extract.)

Sierra Leone, January 22, 1828.

WE have the honour to enclose, herewith, the Report of the Case of the *Brazilian* Sumacca "*St Joao Voador*," restored to the Claimant by Decree of the Court of British and Portuguese Mixed Commission, established here, on the 19th Instant, on the ground of her detention being unauthorized by the Treaty and Convention with *Portugal*, as adopted and renewed with the Government of *Brazil*.

This Vessel, furnished with a Commercial Passport from the Vice-President of Bahia, dated the 4th of July 1827, numbered 392, and other Papers, authorizing her to trade on the Coast of Mina, for palm oil and other produce, was detained, on the 23d of October 1827, off Quitta, to the Northward of the Equator, by the "*African*," Colonial Steam-vessel, having a Jolly-boat of His Majesty's Ship "*Eden*" on board, under the command of Lieutenant Badgley, of that Ship. From his Declaration it would appear, that he considered her to be engaged in the illicit Traffick in Slaves, (and for which illicit Traffick she was subsequently proceeded against by the Commander of His Majesty's Ship "*Eden*,") for, although he does not distinctly state this, it may be presumed from his description of her equipment. The informality of this Document having been noticed by the Court in its Judgment, we deem it proper to enclose a Copy of the same for your Lordship's information.

From the Evidence filed in this Case, and from the Vessel's fitting and equipment, we strongly suspect that her ultimate object to the Northward of the Equator, was, for the purpose of clandestinely shipping a Cargo of Slaves.

We, however, felt it our duty to decree the restoration of the Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden on board her, together with all Costs of Suit, and such Special Damages and Expences, only, as had been occasioned to her, by the detention; the ascertaining the amount thereof being referred to the Registrar to report to the Court.

In giving this Decree, we felt it necessary, acting on the principle laid down in the 8th Article of the Regulations for the Mixed Commission, to refuse the Claimant's demand for demurrage; considering that the Vessel being found to the Northward of the Equator, fitted and equipped as Slave-vessels usually are, had led the Captor into error.

Your Lordship will perceive in the Report, some mention made of this Vessel being furnished with 2 Passports, one of them for the Slave-trade, and this point was strongly urged by the Proctor for the Captor, as a ground for her condemnation, but it being merely an assertion, unsupported by due proof, the Court could not consider it to be sufficiently conclusive that such was the fact.

We further beg to bring to your Lordship's notice, that the Commercial Passport with which this Vessel was furnished, denominated her the "*St. Joao Voador*," at the same time the Alvarà of the Vice-President of the Province of Bahia, together with her Custom-House Clearances, &c. of the same date, call her the "*St. Joao Vencedore*," the latter of which names is most clumsily altered, so as to make it appear "*Voador*," to correspond with the Passport.

This, in our opinion, could only have been done to cover gross fraud, and it is probable, from this circumstance, that she was furnished with a Slaving Passport, as well as a Commercial one, which point, had it been duly proved, would have been sufficient to have condemned her, upon the principles under which we have lately acted in such Cases, and which have been approved by your Lordship.

We deem it necessary to observe to your Lordship, in order to account for the period occupied since the Capture of the Vessel, that it arose from the length of time she was reaching this (the 26th of December 1827,) having, after detention, been conducted to Fernando Po, in order to communicate with the Commander of His Majesty's Ship "*Eden*."

The Report of the further proceedings pending in this Case, relative to the Costs and Special Damages and Expenses allowed to the Claimant, will be transmitted to your Lordship when completed.

Hoping that our decision in this Case, for which we had no precedent on record in the Courts here, will meet with your Lordship's approval,

We have the honour, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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First Enclosure in No. 39.

*Report of the Case of the Brazilian Sumacca, "St. Joao Voador," Antonio José Galvao, Master.*

THIS Vessel, sailing under the Brazilian Flag, and manned with 24 Officers and Mariners, was detained, for being engaged in the illicit Traffick in Slaves, on the 23d of October 1827, by Lieutenant Badgley, of the Royal Navy, who stated in his Declaration, "that he boarded her in the "*Hay*," Jolly-boat of His Majesty's Ship "*Eden*," Quitta Fort bearing N.N.W. 7 or 8 Miles, and that he found her furnished with a Passport from the Governor of Bahia to trade on the Coast of Mina for Palm-oil and Country cloths; that he saw no trading Cargo on board, but on the contrary, found her provided with a Slave-deck and beams, fitted and numbered, bolts and shackles for Slaves, ring-bolts to drive into the deck to secure the Slaves down to, her after-bold filled with farinha and yams, forehold with jerk beef, and main-hold with 10 or 12 two or three ton leaguers, filled with fresh water, and a number of water casks empty; and further, that she had no Journal of her proceedings whatever."

On the 26th of December 1827, the Vessel arrived here from Fernando Po, having been conducted there after detention in order to meet with His Majesty's Ship "*Eden*," and the Papers were brought into Court on the 28th of that Month. The usual Monition in such Cases having been prayed for, the same went forth on the following day (the 29th), and was returned duly certified on the 11th of January 1828.

On the 2d of January 1828, the Master, Antonio José Galvao, put in his Claim for the said Sumacca, her Tackle, Apparel and Furniture, and her Cargo, as the sole property of himself, Joao Jose de Sam Payo, José Joao de Cunha, and Antonio Dias, all inhabitants of Bahia, and in his Affidavit in support thereof, declared that the original Cargo, brought from thence by the



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Vessel was intended for exchange and barter on the Coast, for ivory, wax, palm-oil, and other lawful commerce, and that it had been landed at Popoe and Whydah, for repayment in such description of produce, and not for Slaves, and that when captured the Vessel was on her way from the former Place to Quitta, for the purpose of purchasing live stock and provisions for the return Voyage to Bahia.

The material Evidence of the Master, on the Standing and on Special Interrogatories, went to prove, that he was placed in command of the Vessel by the Managing Owner, Joao Jozé de Sam Payo, and that he took possession of her accordingly in the Month of May 1827, at Bahia, from whence she sailed, on the 16th of July following, for the Coast, provided with a Commercial Passport, and laden with a Cargo to the value of about 13,000 Mil reis, shipped by the Four Owners of the Vessel, consisting of aquadente, tobacco, and other merchandize, for which return was to be made in palm-oil, country cloths and ivory; that the Vessel during the present Voyage had touched at St. Paul's, Accra, Popoe, and Whydah; at the first Place to purchase provisions; at the second to barter aquadente and tobacco for cowries and 4 canoes; and at the two latter to land cargo; that the Papers of the Vessel were all true and fair, and that her being called the "*St. Joao Vencedore*" in some of the Receipts shewn to him (which he stated were not Government Documents), must have arisen from error, as, since she was purchased by him and the rest of the Owners, she has always been called the "*St. Joao Voador*," and that the alteration to that Name in the Alvarà and Custom-House Clearances, from what appears to have been "*St. Joao Vencedore*" must have been made at the Publick Offices from whence those Papers were issued, as no such alterations have been made since they came into his possession; that there being no Log-book, or Journal, on board was owing to the Mate (who kept it, in consequence of his, the Master's, illness) having taken it on Shore at Ajuda (Whydah), and further, that the farinha and jerk beef on board was for the maintenance of the Crew, and the reason for having so much, the uncertainty attending a trading Voyage on the Coast.

This Evidence of the Master was uncontradicted by the other Witnesses, one of whom, however, (the Cook), swore that there was on board a quantity of bricks, sufficient to complete a galley, for the reception of a large copper, independent of the one fitted in the Vessel, and that when he (the Deponent) was one day about to throw some of these bricks overboard, the Master stopped him and said they were intended for that purpose.

One of the Seamen, also, (Joze de Almeida), who had been examined at the time of detention by the Seizing Officer, and then detailed matters, which it would seem partly led the Captor into error, when examined on Special Interrogatories, denied that he had given the information attributed to him, although he acknowledged to having informed Captain Owen, the Commander of His Majesty's Ship "*Eden*," that the "*Voador*" had 2 Passports, 1 for Slaves, and 1 for a common trading Voyage; but that he did so, under the impression that he should, by that means, avoid being obliged to go on Shore at Fernando Po, to labour towards the construction of the Houses then building; but which, on his Examination, he declared to be a false Statement;—further confirmation of this Witness having, while at Fernando Po, openly and freely avowed the object of the Voyage in which the Vessel was engaged to be for Slaves, was obtained from an Affidavit of a Master's Assistant of His Majesty's Ship "*Eden*," filed in the Case.

The Captor's Proctor having prayed, that a Commission of Inspection and Survey might go forth, in order to ascertain whether the Vessel was not fully equipped and furnished, as customary and necessary for a Slave-trading Voyage, the same was granted, and the Report of the Commissioners filed in Evidence, on the 8th of January;—after describing her to be of about 100 tons burthen, the Report entered fully into the particulars of her Equipment, from which it appeared, that there were leaguers and casks sufficient on board to contain 7,112 gallons of water; 49 pieces of plank, numbered and fitted for a Slave-deck; and 3 tons of jerk beef, and 200 bushels of farinha; 1 large medicine chest, as is usually found on board Slave-vessels; and the main-hatchways, fitted with gratings and close hatches. At the conclusion of this Report, the Commissioners certify that it appears to them, that the Vessel was equipped for the conveyance of Slaves.

No Evidence was filed in support of the Master's Claim, but, on learning that the Captors had closed their Case, his Proctor prayed the Judgment of the Court on the Evidence before it.

On the 19th of January 1828, the Court met to adjudicate this Case, and after hearing the arguments of the Proctors, on both sides, delivered an Opinion to the following effect:—

This is the first instance of a Vessel, ostensibly fitted out for the innocent Commerce of Africa, having been, while navigating on this Coast, detained and proceeded against in this Court, under the Treaties between Great Britain and Brazil, for being engaged in the illicit Traffick in Slaves; and a Case that has, in consequence, occupied much of the attention of the Court, which, having maturely considered the Evidence brought forward by the Captor, as well as all the circumstances under which this Seizure was made, will now proceed to its Judgment.

The Declaration sets forth, that this Vessel was boarded off Quitta, by the "*Hay*," a Jolly-boat of His Majesty's Ship "*Eden*," under the command of Lieutenant Badgley of that Ship, she being fitted for the Slave-trade, and, as it would appear, detained on this ground, and the statements of two of the Crew, that Slaves were to be shipped on board her from the Shore, as well as upon the information given by a 3d Person unconnected with the Vessel; and here the Court must remark, that a more irregular Document than this Declaration has never been brought to its notice, for the Capturing Officer had not the right of taking Evidence, and submitting it to the Court, as has been done in this instance, nor can the Court allow the Evidence, so irregularly procured, to be entertained in the Case. The Master and those of the Crew brought forward by the Captors, so far from proving that this Vessel was engaged in the Slave-trade, most positively deny that she was so employed, or in any other manner occupied than as authorized by the Passport and Papers she sailed under, nor is there a single point throughout their Evidence, either in answer to the Standing or Special Interrogatories, that shews the fact to be otherwise, further than it may be inferred from the extreme improbability which attaches to the Master's reasons for having so large a quantity of jerk beef and farinha on board, and from the suspicions which are excited, by there being no Log-book (which is sworn in the Answers to Special Inter-

rogatories to have arisen from its being taken on Shore by the Mate at Ajuda) as well as by his (the Master's) purchasing 4 Canoes at Accra. This inference and suspicion is more particularly strengthened, when the discrepancy of his Evidence, given in the 15th Standing Interrogatory, "that the Vessel's Papers were all true and fair," is compared with his replies to the Special Questions, on the subject of the alteration in the name of the Sumacca, in most of those Papers, and which deception could only have been practised to cover some nefarious dealing, which she was, most probably, engaged in.

That this Vessel's ultimate object was the prosecution of the illicit Slave-trade, the Court most strongly suspects: she was found fitted and equipped to the Northward of the Line as Vessels, engaged in that Traffick, usually are, which is fully proved by the Surveyors' Report, and thereby confirms that part of the Seizor's Declaration, with the exception that he states that shackles and irons were on board at the time of Capture, but which the Surveyors have not mentioned, nor have they alluded to the bricks, sworn to in the Affidavit of one of the Witnesses, and therefore the Court must presume neither were there, or they would still have been in the Vessel, and such important points would, doubtless, have been noticed by the Surveyors. This fitting-up and equipment is, in fact, the only Evidence on which the Court can proceed to found its Judgment in this Case, for it is of opinion that no cognizance can be taken under the present Treaties between Great Britain and Brazil, of the implied intention of a Vessel, although thus circumstanced, to the Northward of the Line, when, as in this Case, she is not licensed for the Slave-traffic, but, on the contrary, sailing as a legitimate Trader under a Commercial Passport, rendering it lawful for her to be on that part of the Coast; it is therefore unnecessary to revert to the indirect Evidence filed by the Captor, in confirmation of the alleged intention of this Vessel to Ship a Cargo of Slaves in the neighbourhood of her detention.

The several Articles and provisions of the Treaty and Convention with Portugal, for the suppression of the illicit Traffick in Slaves, are adopted and renewed by the 2d Article of the Convention between His Majesty and The Emperor of Brazil, dated the 23d of November 1826, as the conditions under which Vessels of that Nation, illegally employed in the Slave-trade, are to be adjudged.

In this Treaty and the Convention thereto, there is no stipulation that Vessels found equipped for the Slave-trade should be held to be engaged in the illicit Traffick in Slaves.

On the 8th of May 1823, a Communication was made by Mr. Under Secretary Planta, under the direction of the late Mr. Canning, to His Majesty's Chargé d'Affaires at Lisbon (E. M. Ward, Esq.) enclosing a Copy of the Additional Article to the Treaty with The King of the Netherlands, whereby a Vessel fitted out, or equipped as a Slave-trader should be subject, under certain conditions to Capture and Condemnation; instructing him to propose that a similar Article to the Treaty with Portugal might be drawn out conformably to it. To this measure, however, it does not appear that the Portuguese Government consented, for, very recently, a like proposal, having the effect of the Additional Articles contained in the Treaties with The Netherlands and Sweden, has been directed to be made to the Government of Brazil.

It is, therefore, perfectly evident that the British Government have contemplated the employment of Vessels, so equipped, in the illicit Traffick in Slaves, and that the Treaty with Portugal for the repression of that traffick, as confirmed by the late Convention with Brazil, does not contain any stipulation that would authorise the detention and subsequent condemnation of Vessels so circumstanced, otherwise no necessity would exist for the adoption of an Additional Article, so framed as to meet the end desired, viz. that the equipment of a Vessel alone should be held *prima facie* Evidence of her being illegally employed, and subject her to detention and condemnation.

A number of Vessels, that were adjudicated by this Court in 1827, had no Slaves on board, and in that point bore resemblance to the Case now before it, but this material difference occurs between them,—they cleared out from Brazil for the legitimate Traffick in Slaves to the Southward of the Line, and were furnished with the Imperial Passport (which Passport forms an integral part of the Convention) making it obligatory on them to enter solely such Ports where the Slave-trade is still permitted to be legally carried on, and were, notwithstanding, found at anchor at notorious Slave-haunts to the Northward of the Line, without assigning any just cause for so glaring a violation of the conditions of their Passports, and infraction of that part of the Treaty, which led to their condemnation. The Case now before the Court presents very different features. The "St. Joao Voador," cleared out for the Coast, as is clear from all the Papers found on board her, on a trading-voyage for palm-oil and other legitimate produce, furnished with a Mercantile Passport for that object, and under the protection of which she had an undoubted right to be on the Northward or Southward Coast, or any point where trading with the Natives is allowed to every Power—here, therefore is no violation of Passport, having reference to any Article of the Treaty and Convention relative to the Slave-trade.

It appears to this Court that Vessels circumstanced as the "St. Joao Voador," avowedly coming to the Coast for legitimate produce, and with Papers shewing such to be the object of the Voyage, cannot, as the Treaty and Convention now stand, be legally interfered with, upon suspicion of being illicitly engaged, and that, however well founded such suspicions may be, it is not sufficient to warrant detention without their then having Slaves actually on board, or having had Slaves during the existing Voyage, neither of which points has been attempted to be proved in this Case. This opinion is strengthened by what has been already mentioned of the act of the British Government, in urging upon the Court of Brazil, the adoption of an Additional Article, similar to that of The Netherlands, so as to bring Vessels thus circumstanced within the scope of the Portuguese Treaty and Convention. Under these circumstances, it is the imperative duty of this Court to restore this Vessel to the Claimant, and it therefore decrees, that the said Sumacca "St Joao Voador," her Tackle, Apparel, and Furniture, and the Goods, Wares and Merchandize laden on board the same, be restored to the Claimant, for the use and benefit of the Owners thereof, with costs of suit and such special damages and expences only as may have been occasioned to the said Sumacca "St. Joao Voador" by her detention by the Boat of His Majesty's Ship "Eden," William FitzWilliam Owen, Esq. Commander, and the Court refers it to the Registrar to ascertain the amount thereof, and to report the same to the Court for its award thereon.

But whereas it has been fully proved to the satisfaction of the Court, that by reason of the said Sumacca "*St. Joao Voador*" being fitted and equipped as Slave-vessels usually are, which fitting and equipment are perfectly unnecessary for a Voyage in legitimate Commerce, and that through the act of the Master of the said Sumacca "*St. Joao Voador*," in coming to the Northward of the Equator, where the Slave-trade is interdicted to the Subjects of the Empire of Brazil, with his Vessel so fitted and equipped for the reception of Slaves, the Captor was led into error by his voluntary and reprehensible fault. The Court Decrees that no demurrage is due to the "*St. Joao Voador*," and that none be paid for the period of her detention.

And whereas it will materially facilitate the closing of the proceedings pending in this Case, and guide the Registrar in estimating the amount of the costs, damages, and expences, which the Court has referred to him to ascertain, to declare its opinion on the 4th stipulation of the 8th Article for the Regulation of the Mixed Commission, in Cases of restitution, not of total loss; which says "the Claimant shall be indemnified for any deterioration of Cargo or Slaves on board at the time of detention," the Court do further Decree, that for such deterioration of Cargo as is now on board, or was actually on board at the time of the detention of the "*St. Joao Voador*," as, upon due proof, is found to be the Case, shall be all the Claimant has a right to receive.

(Signed) JOSH. REFFELL.  
WM. SMITH.

### Second Enclosure in No. 39.

#### *Declaration of the Captor, in the Case of the Brazilian Sumacca "St. João Voador."*

THE "*St. Joao de Voadore*" was boarded by me, in the "Hay," Jolly-boat of His Majesty's Ship "*Eden*," on the 23d of October, Quitta Fort bearing N. N. W. 7 or 8 Miles. When boarded, I found a Passport from the Governor of Bahia, to trade on the Coast of Mina for palm-oil and country cloths. I saw no trading Cargo, but, on the contrary, I found her provided with a Slave-deck and beams, fitted and numbered, bolts and shackles for Slaves, ring-bolts to drive into the deck, to secure the Slaves down to; her after-hold is filled with farinha and yams, the forehold with jerk beef; in the main-hold she has 10 or 12 2 or 3 ton leaguers, filled with fresh water, beside a number of water casks, empty. Her Supercargo told me that she was going to Quitta to complete her water, after which they were to return to Little Popoe and Whydah.

Mr. Ettridge, the Supercargo of a Brig, belonging to Mr Atkin of Sierra Leone, has been trading on this part of the Coast for some time, but cannot procure any palm oil; he knows Senior Joaquim, the Supercargo of the "*Voadore*," as he lived at Popoe some days, and was in the habit of seeing him daily; he knows that the trade he is concerned in is the Slave-trade, and also that he has been procuring a Cargo to ship in this Vessel; her Log-book is destroyed, lost, or thrown overboard; in fact, she has no Journal of her proceedings whatever.

"Jose D'Almeida" (Seaman) joined at Bahia 4 Months ago; the Captain told him, that they were coming for Slaves expressly; and promised them (the Crew), if successful in carrying a Cargo across, that they should have 150 mill reis each; if unsuccessful, nothing; although, in the Papers which were left at Bahia, they are down for 50 mill reis each;—he says that she has 2 sets of Papers, 1 for Slaves from Molemba, the other to trade for oil and cloths;—her Captain shewed him these;—he says, the Supercargo has 2 or 300 Slaves ready for embarkation at Whydah or Adjudah;—the Second Mate is now on Shore with her Jolly-boat, arranging for the embarkation of the Slaves;—the Supercargo has been at Adjudah for the last 12 Months, collecting Cargoes for Vessels;—she came on this Coast some time ago, landed the Supercargo and Cargo, and was soon after obliged to return to Brazil for repairs, and to be fresh coppered;—that she left Brazil about 4 Months ago, and has been upon this part of the Coast ever since;—that she embarked 300 Slave-irons at Bahia, which, with the coppers, were landed at Adjudah;—that as soon as they had completed their water at Quitta, the Slave-deck should have been laid and their Cargo embarked, and the Vessel off the Coast in a few days. Jose d'Almeida is ready to swear to the above. In the presence of Lieutenant Badgley, Commander of the "*African*."

(Signed)

JAS. METCALFE, Mate.

JOHN SCHEARER, Master's Assistant,  
His Majesty's Ship "*Eden*."

"Louis de Silva" (Seaman) joined at Bahia;—never saw the irons or bolts found on board;—the 30 tons of water were to allow the Crew the indulgence of washing their clothes in fresh water;—was told he was going on a trading-voyage. The farinha and beef were for the Crew, engaged at 50 mill reis for Voyage.

"Jose Francisque" (Seaman) joined the "*Voadore*," the day before she sailed from Bahia, for 50 mill reis the Voyage;—knows nothing about the object of her Voyage;—never saw the irons I found.

"Manoel Jose Ment" joined the "*Voadore*," 30 days before she sailed from Bahia;—never saw the irons I found, although he assisted in stowing the hold;—says the Slave-deck was to lay on water-casks;—knows there was no palm oil purchased;—has 50 mill reis for Voyage;—the quantity of fresh water on board was to trim the Ship.

"Joze d'Albert" says, Slave-deck was to build house with, at Adjudah, does not know what so much water or irons were for.

"Francisco Antonio," 12 days on board before Vessel sailed from Bahia, partly stowed the hold, cannot tell what Slave-deck was for, had 50 mill reis for Voyage.

"Joseph Sento," 8 days on board before Vessel sailed from Bahia; he does not know what the irons on board were for, has 50 mill reis for the Voyage; says, the Slave-deck was to lay the Country cloths upon.

"Manoel de Almeida," 8 days on board before Ship sailed from Bahia; partly stowed Cargo; cannot give any reason why she had so much water; never saw the irons I found.

"Byhe," shipped at Bahia, understood she was going on a trading-voyage, and that the beef and farinha were to purchase fresh provisions for Crew; that Slave-deck was to stow the cloths upon—50 mill reis for the Voyage.

"Joze Antonio" understood she was going on a trading-voyage, has 50 mill reis per Month—says the farinha and beef were to purchase fresh provisions.

"Augustine José," belonged to "Henriquette," was sent on board "*Vencedore*," by Commodore Collier, remained one day and one night on board Schooner, heard her called "*Voadore*" by all her Crew, who told him that that was her name positively, although she had another for occasions; has been nearly a Month on board the "*St. Joao de Voadore*," but merely gets his passage and provisions to Bahia, without wages.

"John Thomas," Native of Port au Prince, St. Domingo, has been living at Adjudah 6 Months, knows Senior Joaquim well, knows that he has a great deal to do with Slaves, joined the "*Joao de Voadore*" as Cook for 25 \$ for the run—was only 2 days on board when this Vessel was captured, and therefore did not know much of her history; but although the Officers and Crew told him she was trading for palm-oil and cloth, and that the Slave-deck was to cover the oil casks, and to stow the cloths on, yet he knows that had she not been interrupted, that the night before she was to leave Adjudah, the Slaves would have been embarked, and at day-light the following day she would have been off.

The above Men are ready to take Oath to the truth of these Assertions,—examined in the presence of,

(Signed)

JAMES BADGLEY, Lieutenant and Commander of "*African*."

JAMES METCALFE, Mate of His Majesty's Steam Vessel.

JOHN SCHEARER, Master's Assistant.

*His Majesty's Steam Vessel, "African," at Sea, 25th October 1827.*

#### No. 40.

##### *The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, March 31, 1828.*

I HAVE received your Despatches up to the date of the 22d of January 1828.

The view which you have taken of the Case of the *Brazilian* Sumacca "*St. Joao Voador*," as contradistinguished from those of the *Brazilian* Vessels adjudicated by you in the Year 1827, appears to His Majesty's Government to be sound and proper; and the Decree which you pronounced in consequence, in the Case of the "*St. Joao Voador*," in declaring the restitution of that Vessel, appears to His Majesty's Government to be founded on a just interpretation of the existing Stipulations of the Compacts between Great and *Brazil*; which unfortunately have not, as yet, provided against the artifices, which the ingenuity of illegal Slave-traders devise, for evading the spirit of those Compacts, but against which evasions the Article proposed to the *Portuguese* Government, through Mr. Ward, in the Year 1823, and, more recently, to the *Brazilian* Government, through Mr. Gordon, are specially intended to provide.

I am, &c.

*His Majesty's Commissioners.*

(Signed) DUDLEY.

#### No. 41.

##### *His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)*

MY LORD,

*Sierra Leone, January 31, 1828.*

WE have the honour to enclose with the present Despatch, the Report of the Case of the *Brazilian* Schooner "*Vencedora*," Joao Maria Evangelista, Master.

The "*Vencedora*" cleared out from the Port of Bahia, for a legitimate Voyage, to procure palm-oil, ivory, gold, and country cloths, on the Coast of Mina, furnished with a Commercial Passport from the Vice President of the Province of Bahia, dated the 31st of August 1827, for that object, and was detained, off Whydah, on the 24th of October last, under the suspicion that she was engaged in the illicit Traffick in Slaves, by Lieutenant Badgley, of

His Majesty's Ship "Eden," he being then in command of the Colonial Steam Vessel "African," having a Boat of His Majesty's said Ship on board of her.

She arrived here on the 30th of December 1827, and was proceeded against for a breach of the Treaty and Convention with *Portugal*, for the repression of the Slave-trade.

At the hearing of this Case, on the 26th Instant, no attempt was made, on the part of the Captors, to prove that the "*Vencedora*," had a Slave or Slaves on board during the Voyage, nor did the Evidence before the Court even show that she was engaged in the illicit Traffick; the Court therefore decreed the restitution of the "*Vencedora*" to the Claimant, together with such Costs of Suit, and Special Damages and Expences, only, as had been incurred by her detention, and referred it to the Registrar to ascertain the Amount thereof, and report the same to the Court.

It having, however, been proved satisfactorily, that in many points this Vessel was fitted and equipped as Slave-vessels usually are, and that her being so fitted and equipped at anchor off that notorious Slave Port, Whydah, had led the Captor into error by the voluntary and reprehensible fault of the Master, the Court decreed, as in the Case of the "*St. Joao Voador*," lately reported to your Lordship, that no demurrage should be paid for the period of the "*Vencedora*'s," detention.

In this Case, as in that of the "*St. Joao Voador*," there appears, from the Ship's Papers filed in Court, to have been some gross fraud in contemplation. The whole of the Government Papers, viz. Passport, Custom-House Clearances, Fort Pass and Muster Roll, denominate her the "*Vencedora*," while at the same Date the managing Owner, Antonio de Padua, in sending on board Cargo, calls her the "*Voador*," and in the Log-book of the Master, it has evidently been the same name; this however has subsequently been attempted to be altered to "*Vencedora*," which he (the Master) deposed to being the latter name abbreviated; and here we most respectfully beg to draw your Lordship's attention to the uncommon and justly suspicious circumstance of this Vessel having the same real and fictitious Names as the "*St. Joao Voador*," which conveys to an unprejudiced mind the want of due caution, at least, on the part of the *Brazilian* Government, in being thus evidently deceived by its Subjects.

The principles under which we deemed it our duty to restore the "*Vencedora*," having been fully detailed in our Report of the "*St. Joao Voador*," both of which Cases exactly resembled each other, we have thought that it would not be necessary to enter again into them in the present Report, to which we beg to refer your Lordship for the particulars of this Case.

The Declaration of the Capturing Officer having been referred to in the Decision of the Court, we have felt it our duty to transmit a Copy of the same for your Lordship's information, and to observe, that the mystery he alludes to, as connected with this Vessel's purchase here, after a former seizure and condemnation, and the remark respecting the Governor having a claim on her, may be explained by the simple fact of her having been disposed of (she being then called the "*Eclipse*,") under a Decree of the British and *Portuguese* Court, by publick auction, and purchased by a Resident in this Town, of the Name of Henriott, who subsequently transferred her to a Foreigner, to convey from this to the Brazils the Crews of several condemned Slave-vessels; in which employment she left the Colony.

We shall have the honour to report in a short time the further and final proceedings now pending.

Hoping that our conduct may meet with your Lordship's approval,

We have the honour to be, &c.

(Signed) JOSH. REFFELL.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
    &c.                      &c.                      &c.

## First Enclosure in No. 41.

*Report of the Case of the Brazilian Schooner "Vencedora," Joao Maria Evangelista, Master.*

THIS Vessel left Bahia on the 9th of September 1827, for an avowed legitimate trading-voyage on the Coast of Mina, being furnished with a Commercial Passport from the Vice-President of Bahia (numbered 473, and dated the 31st of August preceding) for that object, and on the 24th of October 1827, was detained at anchor off Whydah, to the Northward of the Equator, by Lieutenant Badgley, of His Majesty's Ship "Eden," (then in command of the Colonial Steam Vessel "African," having a Boat of His Majesty's said Ship on board her) on suspicion of being engaged in the illicit Traffick in Slaves.

On the 30th of December 1827 the "Vencedora" arrived in this Harbour, having after Seizure been conducted to Fernando Po, and on the following day the Vessel's Papers were brought into Court, and proceedings instituted against her. The Monition in such Cases having been prayed for, went forth on the 2d of January 1828, and was returned, certified to have been duly executed, on the 11th of that Month.

On the 5th of January, the Master filed his Claim on behalf of the Owners, (Joao Antonio Montiero, Manoel Antonio da Cruz, Manoel Joaquim Alves, and Antonio de Padua d'Acunha Pimentel, all of Bahia) for the Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares and Merchandise, on board the same, and in his Affidavit in support of it, set forth, that the outward bound Cargo of the Vessel, consisting of tobacco, rum, and dry goods, had been landed at Whydah, for which payment was about to be made in palm-oil, cloths, and other lawful produce, when she was seized; and in support of this being the object she was engaged in, a Certificate of the Seizing Officer (Lieutenant Badgley,) was attached, dated in the Forenoon of the Day he detained her, and to this effect: "that the "Vencedora" had been examined, and that he had found no cause for detaining her."

The material Evidence of the Master, as confirmed by the other Witnesses produced, went to prove, that the Vessel sailed direct from Bahia, and anchored and touched at Whydah, where she landed her outward bound Cargo, with the exception of 150 rolls of tobacco, and was to have received in return palm-oil, cloths, and other lawful Produce, and that she was neither sent to the Coast for the Slave-traffick, nor had been engaged in it.

On the 11th of January, on Petition of the Captor's Proctor, a Commission for Inspection and Survey of the Vessel was issued, in pursuance of which the Commissioners reported, that "having carefully examined, surveyed and inspected her, they found her of the burthen of about 120 tons; that she had, stowed in her hold, 10 large leaguers, 7 pipes, 2 puncheons, and 2 quarter casks, capable of containing about 4,200 gallons of water; that there were on board 35 planks, 17 feet long, rough as cut from the tree, and neither numbered, marked or fitted in any way; that the main and half-deck hatchways were fitted complete with open gratings; that there was also on board 23 cwt. of jerk beef, and from 150 to 200 bushels of farinha, part in bags, and part in bulk, and one medicine chest, fitted complete, about 2½ feet long, and 15 inches in height, much too large, in their opinion, for an ordinary mercantile voyage for a Vessel of her size, and further, that there were no coppers on board, and that her cabouse was such as is generally used in Brazilian Vessels.

The only other Evidence of consequence filed in this Case, was an Affidavit of a Mr. Etheridge, Supercargo of an English Merchant Vessel, to shew that palm-oil could not be procured at Whydah: but this was satisfactorily rebutted by the Evidence of a Mr. Spence, who, as Owner and Master of an English Merchant Vessel, had been for many Years, and is still, in the African-trade.

The Evidence in this Case being all filed, and the Proctors, on behalf of the Captor and Claimant, having closed their proceedings, the Court met on the 26th of January 1828, and pronounced Judgment as follows:—

This is the second instance of a Brazilian Vessel, ostensibly fitted out and engaged in the lawful Commerce of Africa, and furnished with a Commercial Passport and other Papers for that purpose, being detained by the same Captor, and proceeded against on similar Evidence in this Court, for being engaged in the illicit Traffick in Slaves, and a Case, therefore, so very similar in facts and principle to that of the former, the "St. Joao Voador," lately adjudicated, as greatly to facilitate the Court in forming its Judgment.

The Declaration of the Captor, which is dated the 27th of October, at Sea, does not state the day of the Vessel's detention; but, from the Affidavit of Mr. Scheerer, Master's Assistant of His Majesty's Ship "Eden," on bringing the Ship's Papers into Court, it appears to have been made on the 24th of that Month, when, as is seen from the Declaration of Lieutenant Badgley (the Captor), she was boarded by a Jolly-boat of His Majesty's Ship "Eden," being then at anchor off Whydah. From this Document, which, the Court must here observe, is even more irregular than that of the "St. Joao Voador," which it had reason to remark on, it does not appear, except from her equipment and the quantity of jerk beef and farinha on board, that she was intended to be otherwise employed than as contemplated by the Passport and Papers she sailed with. The Court will not here enter into all the irregularities of this Document. The Evidence taken by the Captors, as in the Case of the "St. Joao Voador," cannot be entertained; nor can the observations, and other details he has entered into, have any influence in its Decision.

The Evidence, produced in support of this Case by the Captors, does not prove, in the most distant degree, that this Vessel, when detained, was engaged in the illicit Traffick in Slaves. The Witnesses examined on the Interrogatories establish the fact to be otherwise, and they all agree in the same statement without the slightest discrepancy. The Affidavit of Mr. Etheridge (Supercargo of a Merchant Vessel, who had been 2 Months trading on that part of the Coast), is the only Evidence to shake this Testimony, and that is any thing but satisfactory; a more vague Document could not well have been produced; his surmises and opinions are not proofs; and his not being able to barter for palm-oil and ivory in the Neighbourhood of this Vessel's detention, is not

to be entertained as Evidence ;— that therefore such articles could not be procured, and that a Vessel trading in those Parts could only be engaged in the Slave-traffic. This point, however, is fairly and fully met by the Affidavit of Captain Spence, who swears directly to the contrary, and whose long experience of the trade of that part of the Coast, as set forth in that Evidence, is certainly to be preferred to Mr. Etheridge's short knowledge in the same Neighbourhood

The principal Evidence in support of the Declaration is in the Report of Survey ; for, although the Surveyors do not state this Vessel to be so fully fitted and equipped for a Slaving-voyage as Vessels engaged in that Traffick usually are, yet there are sufficient points in the equipment, as set forth by them, which, not being at all required for a legitimate Voyage, naturally led the Captor, finding her thus circumstanced, to the Northward of the Line, and in the Neighbourhood of noted Slave-haunts, to believe the illicit Traffick in Slaves to be her object ; and although, in the first instance, he gave the Master a Certificate that he found no cause for detaining her, still, on more mature consideration of the nature of the Case, and the information he afterwards received, that act did not prevent him from subsequently doing so.

As there is no proof in the whole of his Evidence of a Slave or Slaves having been taken on board this Vessel, for the purpose of the Traffick, during the present Voyage, nor that she was otherwise engaged than in the licit Commerce of Africa, as permitted to her by the Passport she sailed under, which also authorized her to come to the Northward Coast, there has been no violation of that part of the Convention with *Portugal*, relative to the illegal Shipment of Slaves, nor any breach of Passport, as in the Cases of several Vessels, adjudicated in this Court in the past Year, and which warranted their condemnation. This Court must therefore, governing itself on the same principles as laid down in the Case of the "*St. Joao Voador*," restore this Vessel to the Claimant, and accordingly decrees that the "*Vencedora*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize on board her, be restored to the Claimant, for the use of the Owners and Proprietors thereof, with all Costs of Suit, and such Special Damages and Expenses only, as have been incurred by her detention by His Majesty's Ship "*Eden*," William Fitz-William Owen, Esquire, Commander, and refers it to the Registrar to ascertain the amount thereof.

But whereas it has been proved to the satisfaction of the Court, that by reason of the said Schooner "*Vencedora*," being partly fitted and equipped as Slave-vessels usually are, which fitting and equipment are perfectly unnecessary for a Voyage in legitimate Commerce, and that through the act of the Master of the said Schooner "*Vencedora*," having his Vessel so fitted and equipped, in the immediate Neighbourhood of noted Slave-haunts to the Northward of the Equator, where the Slave-trade is interdicted to the Subjects of the Empire of *Brazil*, the Captor in this Case was led into error by his voluntary and reprehensible fault ; the Court Decrees that no Demurrage is due to the "*Vencedora*," and that none be paid for the period of her detention.

(Signed)

JOSH. REFFELL.

WM. SMITH.

## Second Enclosure in No. 41.

### *Declaration of Captor, in the Case of the Brazilian Schooner, "Vencedora."*

THE "*Vencedora*," Brazilian Schooner, belonging to Bahia, 150 or 160 tons, 25 men, 1 gun, Joao Maria Evangelista, Master or Captain, was boarded by me in the "*Hay*" Jolly-boat of His Majesty's Ship "*Eden*," at anchor of Whydah or Adjudah. I found her provided with a similar Passport to the "*St. Joao de Voadore*," authorizing her to trade for palm-oil and country cloths on the Coast of Mina. I found on board of her at the time of Capture, a Negro belonging to Whydah, (whom the Captain told me was head Trade or Slave man,) with 3 large Canoes, apparently to land the remaining aquadente. The Crew were at this time employed clearing away the main hold, in which I found a complete Slave-deck ; and some men actually employed in laying the after part of it ; in it were also 10, 3 or 2-ton, leaguers of fresh water, besides many other water-casks filled with salt water ; her after-hold was filled with jerk beef and farinha in bulk. The fore-hold with the same articles ; and, in the eyes of her and main-hold, a quantity of roll-tobacco. This Vessel was captured at the same anchorage several Months ago, and sent with some others under similar circumstances to Sierra Leone, where they were all condemned : some mystery hangs over the purchase of this Vessel at Sierra Leone, as her Crew say, that the Governor has a claim on her ; her log ceases from the day of making the land ; it calls her the "*Voadore*," but the Master, or some other interested Person, has endeavoured to transform this word into "*Vencedore*," thus "*Avodore* and *Vodore* ;" when I first obtained possession of the Log-book, the colour of the ink was so light, and the alteration in the name so palpable, as not only to cause me and Mr. Metcalfe to remark it, but also Augustine Jose, one of the Crew of the "*Joao de Voadore*," who reads and writes the language well.

This Augustine Jose swears to her name being "*Voadore*," and not "*Vencedore*," as I have remarked in his examination with the Crew of the "*Joao Voadore*." I also found some orders from some people (Merchants or others) at Bahia to the Contremestre, or Boatswain, to receive on board the "*Voadore*," casks of aquadente and other articles, a day or two previous to her Passports and Papers being signed ; when captured, the only articles of trade were 2 pipes of aquadente and the tobacco. Her Supercargo has been living on Shore since her arrival, 12 days previous to Capture, and together with the Master, has purchased some palm-oil, which, from information from her Crew, through Augustine Jose, proves to be Slaves, which were to be embarked as soon as the aquadente was landed, and for which purpose the canoes were alongside ; the Crew tell Augustine, that they cannot tell the exact number, but they are positive that they were soon to have been embarked ; this information, I am inclined to think is correct, from find-



ing them preparing the deck, the Crew also informs him that a Piratical Brig boarded her a few days previous to Capture, and threatened the Captain with instant death, unless he immediately delivered up all the irons he had, which were accordingly handed over to him, to between 200 and 300, they cannot swear to the number, as they were sent forward. (Jose d'Almeida says, that he is confident these men will deny all this, whenever they are examined again, he knows from experience what his Countrymen are.)

(No. 1.)—John Stevens, from Oporto, but of English Descendants, joined the Schooner as the “*Vencedora*,” but does not know that it is her name, never had the curiosity to enquire; 120 Mill reis for the Voyage, which he understood was a trading-voyage.

(No. 2.)—Gregory Jose Musons, joined at Bahia, generally heard her called “*Vencedore*,” says he understood she was going on a trading-voyage; says Slave-deck was brought over for “*Chacha*,” at Whydah; that the fariuha and jerk beef were for the Canoe men.

(No. 3.)—Jose Domenjue, shipped at Bahia, heard her called “*Vencedore*,” does not know Master's name; has 138 Mill reis for Voyage.

(No. 4.)—Antonio Jose, shipped as Captain's Cook, the day she sailed; understood it to be a trading-voyage; says her name is the “*Vencedore*,” 120 Mill reis for 6 Months.

(No. 5.)—Joaquim Jose, 5 days on board before she sailed from Bahia, has heard her called “*Vencedora*,” but knows not to a certainty that such is her name; when they sailed, understood they were going on a trading-voyage for oil and cloths; says that 200 casks of oil are ready, which were to have been started into the leaguers; 120 Mill reis for the Voyage.

(No. 6.)—Manoel Jose, shipped the day before she sailed, heard her called “*Vencedora*,” understood she was going trading for oil and cloth; was robbed by a Pirate of several barrels, but cannot swear to their contents; has 100 Mill reis for the Voyage.

(No. 7.)—Jose Francisco, does not know her name, joined when in point of sailing. Says, the Slave-deck was to nail against Ship's side, to prevent the leakage of the Vessel; has 150 Mill reis for Voyage.

(No. 8.)—Jose Antonio, has always heard her called “*Vencedora*,” says the Slave-deck was to stop leaks; has 60 Mill reis for Voyage.

(No. 9.)—Jose Francisco Joao, has heard her called “*Vencedore*” and “*Voadore*,” but never enquired what her proper name was; says that a Pirate robbed the Vessel of a great many things as her Boat returned 3 different times; cannot say what she took, as the Crew were sent forward; has 100 Mill reis for Voyage. “This man, in Captain Owen's presence, asserted that the Vessel's name was positively “*Voadore*,” not 2 hours ago.

(No. 10.)—Joao d'Alveirez Diez, the Vessel's name is “*Vencedore*,” but has frequently heard her called the “*Voadore*.” This man also, not two hours ago, asserted, positively, that the Vessel's name is “*Voadore*,” three different times. Her Slave-deck is one moment to stop leaks, and the next to cover the tobacco and rum on Shore. (This is very probable). Has 60 Mill reis for Voyage.

The above men are ready to make oath to the truth of their assertions.

Examined in the presence of James Bagdley, Lieutenant, and Commanding His Majesty's Steam-Vessel “*African*.”

(Signed) JAMES METCALFE, Mate of Ditto.  
JOHN SCHEARER, Master's Assistant.

His Majesty's Steam Vessel, “*African*,”  
at Sea, 27th October 1827.

The Proprietor named in the Passport is not the same as marked in the Log-book, and Evangelista is Chief Mate in her Papers, and Manoel Dias is the Master.

(Signed) W. F. W. OWEN.

## No. 42.

His Majesty's Commissioners to The Earl of Dudley.—(Received April 15.)

MY LORD,

Sierra Leone, February 12, 1828.

WE have the honour to acknowledge the receipt of your Lordship's Despatch, dated 13th of December 1827, enclosing to us Copy of a Letter addressed to your Lordship by Messrs. Mello, Robertson, and Co. relative to Copies of Proceedings had under the Mixed Commission Court here, in the Cases of the *Brazilian* Vessels, “*Commerciant*e” and “*Conceição*,” and also Copy of the Reply, which, under your Lordship's directions, was addressed to them by Mr. Backhouse.



We beg to assure your Lordship that no application has been made for the Papers referred to by Messrs. Mello, Robertson and Co. within the last 3 Years, and, from the enquiries we have instituted, we cannot learn that any such request had been made at an earlier period.

We have, according to your Lordship's commands, given general directions to the Registrar, to furnish Copies of the Proceedings in all Cases had before the Mixed Commission Court, to Parties offering to pay for them; and on the application of the Agent of Messrs. Mello, Robertson and Co., the Papers which they solicited your Lordship to direct might be prepared for them, will be furnished.

We shall not fail to use due caution that no opinion of the Court, on the object for which the Documents may be required, shall be given.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.

WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

### No. 43.

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 9.)*

MY LORD,

*Sierra Leone, February 25, 1828.*

WITH reference to our Despatch of the 22d of January last, we now have the honour to transmit, herewith, to your Lordship, the Supplementary Report of the Case of the *Brazilian* Sumacca "*St. Joao Voador*."

In our Report of the first part of the Proceedings had in this Case, we stated fully our opinions for not giving the Claimant other Damages than the Costs of Suit, and such Special Damages and Expences, only, as had been incurred by the detention of this Vessel, as her Slave-trading outfit and equipment had led the Captor into error.

Notwithstanding the Decree of the Court, the Claimant preferred Charges for other Damages, he said he had sustained, inconsistent with such Decree, and even unsupported by any proof whatsoever, and which the Acting Registrar, therefore, very properly, in our opinion, refused to allow.

Copies of the Schedule of Costs, Damages, and Expences, as submitted to the Registrar,—the Affidavits of the Claimant, and the Prize-Officer, Lieutenant Robinson, and a Mr. Metcalfe,—together with the Registrar's Report, accompany this, for your Lordship's information.

After the Registrar had made his Report in this Case, on the 5th Instant, the Proctor for the Claimant, on the 7th following, prayed that an Affidavit of the Steward of the Vessel, Bernardo Jozé da Sousa, in answer to the Affidavit of the Prize-Officer, might be taken and filed on behalf of the Claimant.

This Petition the Court refused, on the grounds that whatever proofs the Parties in the Case had to bring forward, should have been produced before the Registrar had made his Report, and that such irregularity would protract the proceedings *ad infinitum*.

A Copy of the Registrar's Report has been asked for; but as we consider that Report to have been made solely for the assistance of the Court in making its Award (a Copy of which Award has been given to both Captor and Claimant,) and not a part of the Evidence filed in the Case, it has also been refused.

We think it proper to put your Lordship in possession of these facts, as the Parties interested have applied for Copies of the Evidence, in order, as we understand, to prosecute an Appeal against our Decision to the *Brazilian* Government, according to the 12th Article of the Regulations for the Mixed Commission, and it is possible that, in so doing, they may impute wrong motives to this Court on this account.

It is painful to us to have to report to your Lordship that, in Cases of the present nature, we labour under difficulties in estimating the sum to be awarded for the Damages claimed. The Parties claiming restitution have, for the most

part, no regard whatever to the obligation of an Oath, nor do they, in any way, consider that sacred act binding on their consciences, in any matter connected with the Slave-trade; the consequence is, therefore, generally speaking, that they perjure themselves, in order to augment the amount of their Damages, to an inconceivable extent; and, in the present Case, the Claimant swore that the usual freight for palm-oil from Africa to the Brazils, was 70 Milreis per pipe, which, at 5 shillings per Milrei, is equal to £45 per ton, a sum nearly double the amount of its whole value in London.

The conduct of such Parties necessarily makes us exceedingly cautious in crediting their Affidavits, which are too often totally void of truth, and, indeed, only framed, as in this Case, to mislead the Court.

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.

WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

*P. S.*—Since writing the above Despatch, the “*St. Joao Voador*” has sailed. She left this Harbour on the 27th of February, having cleared out at the Custom-House for Bahia. The “*Vencedora*” remains here, having been sold, and transferred to Mr. Atkins, according to the Agreement deposed to by Messrs. Campbell and Parker.

#### First Enclosure in No. 43.

#### *Supplemental Report, containing Final Decree of the Case of the Brazilian Sumacca “St. Joao Voador,” Antonio Joze Galvao, Master.*

ON the 5th day of February 1828, the Acting Registrar made his Report on this Case to the Court, as was ordered on the 19th day of January last, in which he gave it as his opinion that the Claimant was entitled to £21. for Costs of Suit, and £27 5s. 5½d. for Special Damages and Expences, making, together, a sum of £48 5s. 5½d.

On the 21st day following, a Court was held to make its Award in this Case, and the Proctors for each Party having offered no objections to the Registrar's Report, the Commissioners confirmed the same, and thereupon did Award and Decree, that William FitzWilliam Owen, Esquire, the Captor in this Case, do pay unto Antonio Joze Galvao, the Claimant, or unto his lawful Attorney or Attornies, for the use of the Owners and Proprietors of the said Sumacca “*St. Joao Voador*,” absolutely and unconditionally, the sum of £48 5s. 5½d., being for the Costs of Suit, and such Special Damages and Expences only, as the Acting Registrar had stated the Claimant was entitled to for the detention of his Vessel.

(Signed)

JOSH. REFFELL.

WM. SMITH.

#### Second Enclosure (A.) in No. 43.

#### *Affidavit of the Master of the Brazilian Sumacca “St. Joao Voador.”*

APPEARED personally, Antonio Joze Galvao, Master of the said Sumacca, who, being duly sworn, saith that the annexed is a true and faithful Account of damages sustained by reason of the seizure and detention of the said Vessel, and that the same are all and severally charged at a fair and reasonable rate; and this Deponent further saith, that the whole of the provisions and articles of food therein enumerated, were actually consumed by the Officers and Crew of His Majesty's Ship of War “*Eden*,” subsequent to the detention of the said Sumacca; and this Deponent further saith, that the amount charged for the same, was actually paid by the Owners and Proprietors of the said Vessel at Bahia; and this Deponent further saith, that the charges for freight are such as are usually paid and received at Bahia in the Brazils; and this Deponent further saith, that the mainsail and foretopsail in the said Account stated, have sustained the said damages at Fernando Po, entirely owing to the negligence of the Captors, in having exposed the said sails to the rain, during the period of 18 days, whilst the said Sumacca was lying at Fernando Po: and this Deponent lastly saith, that all and singular, the damages sustained, and charges contained and enumerated in the annexed Claim, are and is in every respect and particular, just and true, and that the annexed Invoice contains a just and true account of the original cost of the Cargo laden on board the said Vessel at Bahia aforesaid, and that the same is without any fraud or alteration whatsoever.

(Signed)

ANTONIO JOZE GALVAO.

On the 29th day of January 1828, the said Antonio Joze Galvao }  
was duly sworn to the truth of this Affidavit,  
Before me, (Signed) S. M. MAGNUS,  
Acting Registrar. }

Second Enclosure (B.) in No. 43.

Account of Damages sustained by the Detention of the Brazilian Sumacca  
" St. João Voador."

Bahia, 5 de Julho e 1827.

FACTURA dos Generos abaixo mencionados carregados a Bordo da Sumacca " S. Joao Voador,"  
de que sou Capa. pr. minha conta e risco e de quem mais pertencer, a entregar na Costa da  
Mina, e mim auzente a quem meos poderes tiver. a Ser.

Sem Marca	1,046	Rolos de Tabaco .....	4,500	4,707\$	000
sGs	30	Pipas de Aguardente .....	60,000	1,800\$	000
No. 1. a 2.	2	Caixas com 50Ps. de Damascos de diftes. Cores com			
3. 4.	400	1,250 Covados .....	2,650	3,312\$	500
5. 6.	2	Macos de Misanga Lapidaola Azu'l Clara-groca ....	4,800	1,920\$	000
		Caixas com 100 Ps. de Madapulao .....	3,600	360\$	000
				12,099\$	500
		GASTOS.			
		Alvaremgas Trape. e Negros .....	30\$000		
		Conduçoens e Guindto. ....	3\$200	33\$	200
			Rs.	12,132\$	700

(Signed) ANTONIO JOZE GALVAO.

Second Enclosure (C.) in No. 43.

Claim of the Master of the Brazilian Schooner, "San Joao Voador."

THE Claim of the said Antonio Jose Galvao, on behalf of himself, Joao Jose de Sam Payo, Jose Joao de Cunha, and Antonio Dias, the sole Owners and Proprietors of the said Vessel and Cargo, for Costs, Damages and Expences, in the said Case, pursuant to a Decree of Restitution of the said Vessel, dated 19th January 1828.

For Costs of Articles as hereunder are enumerated, the same being consumed subsequent to Capture, by the Officers and Crew of His Majesty's Ship of War " Eden."				
2 barrels of Port Wine, containing 140 bottles each barrel, say				
23½ dozen, at 3,600 Reis per dozen .....	84,000			
2 dozen White Wine, at 7,200 do. do.....	14,400			
1½ do. Frontignac, at 9,600 do. do.....	14,400			
3 dozen of Ale, at 2,400 do. do. ....	7,200			
8 jars of Gin .....	3,200			
40 lbs. Coffee, at 4,800 Reis per aroba of 25lbs. ....	7,680			
2 arobas of Sugar, at 4,000 Reis per aroba .....	8,000			
2 lbs. Tea, at 1,600 do. per lb.....	3,200			
1 hhd. Biscuit.....	5,600			
1 barrel Flour .....	11,200			
1 large bag Rice.....	6,400			
16 lbs. Vermicelli .....	3,200			
2 large Hams .....	12,800			
2 dozen Sausages .....	6,000			
3 arobas of Bacon .....	9,600			
12 cases of Sweetmeats .....	4,800			
4 jars of Sweetmeats .....	6,400			
7 Hogs .....		44,800		
3 Goats .....		7,200		
5 Sheep .....		12,000		
80 Fowls .....		8,000		
4 Ducks .....		1,600		
1 Turkey .....		1,600		
16 lbs. Butter .....	6,400			
Carried forward..	214,480			

	Brought forward, ..	214,480	
2 Cheeses .....		1,600	
16 lbs. Almonds .....		3,200	
12 lbs. Chocolate .....		9,600	
1 pipe Rum, containing 140 gallons .....			96,000
4 cases Segars .....		6,400	
4 bottles of Liqueur .....		3,200	
400 Yams .....			24,000
1 barrel Palm-oil .....			3,200
20 lbs. Candles, used for making Signals, &c. ....		4,000	
4 barrels of Rum (of which one-fourth is ullage) .....			12,000
1 jar Linseed Oil (broken) .....		4,800	
40 arobas Jerk Beef, at 3,200 Reis per aroba .....		128,000	
Farinha .....		8,000	
		383,280	
50 per Cent. advance .....		191,640	
			574,920

## For Special Damages and Losses sustained subsequent to Capture.

	£	s.	d.
Main Topmast (lost) .....	2	0	0
Sheets of Main Topgallant Sail (lost) .....	1	6	0
Main Topsail Tye (lost) .....	0	15	0
Slings of Main Topsail Yard (cut) .....	0	10	0
A 4 inches Runner (cut for making swabs) .....	4	0	0
Main Boom Sheets (parted) .....	1	6	0
Main Peake and Throat Halliards (destroyed) .....	6	6	0
Rigging at Mainmast Head (destroyed) .....	2	0	0
Fore Tressel Gaffe (carried away) .....	2	0	0
Fore Braces (rotted) .....	2	10	0
Fore Topsail Tye (rotted) .....	0	15	0
Topsail Sheets (parted and cut) .....	2	2	0
Topsail (in bad condition, required 2 bolts of Canvass) ...	8	0	0
Foresail (in bad condition, required 2 bolts of Canvass) ...	8	0	0
Foresail Sheets and Tucks (cut up for swabs) .....	4	0	0
Fore Topgallant Sail (in bad condition, required half bolt of Canvass) .....	2	0	0
Fore Topmast Stay (entirely rotted from rain) .....	4	0	0
Gib Stay (entirely rotted from rain) .....	3	0	0
Gib Boom (parted) .....	2	10	0
Stay Sail (rotted, required 2 bolts light Canvass) .....	6	0	0
Gib (rotted, required $\frac{1}{2}$ bolt light Canvass) .....	2	0	0
Rope Yarns .....	2	0	0
Rattling Stuff and Sail Twine (consumed) .....	1	0	0
Gib Halliards (rotted) .....	2	10	0
2 Copper Pumps (broken) .....	4	0	0
8 Buckets (broken and thrown overboard) .....	1	0	0
Sundry Blocks (rendered useless) .....	4	0	0
Damage to Cable in having neglected sarving same .....	4	0	0
Damage to Mainsail, rotted from having been exposed to rain, and not loosened to dry, during the period of laying at Fernando Po, for 18 days; required 8 bolts of Canvass .....	32	0	0
Fore Tressel, rotted from having been exposed to rain, and not loosened to dry, during the period of laying at Fernando Po, for 18 days, required $6\frac{1}{2}$ bolts of Canvass .....	25	0	0
Damage to Long Boat used at Fernando Po, discharging articles from Transport, Steam Boat, and Eden, during period of 18 days .....	9	0	0
	£. 149	14	0

## For Freight of Cargo, outwards as follows:—

1,046 rolls of Tobacco, at 2,000 Reis each .....	2,092,000
30 pipes of Aquadente, at 44,800 do .....	1,344,000
6 cases of Merchandize, at 16,000 do .....	96,000

## For Freight of Cargo, homewards as follows:—

73 pipes of Palm-oil, containing 5,200 Canadas, at 10 Testoons each .....	5,250,000
60 bales of Country Cloths, containing 120 in each, at 1 Testoon each .....	720,000
100 Teeth, Ivory, weighing 3,210lbs. ....	321,000

For the hire of a Crew to enable the said Sumacca "St. Joao Voador," to sail from the Port of Sierra Leone, 1 Month's Wages for 10 Men, at 20 \$ each .....	160,000
For Special Damage sustained by 18 days' detention of the said Vessel at Fernando Po, subsequent to the Seizure thereof by Captor, at 24,000 Reis per diem .....	432,000
5 per Cent. Allowance on Capital employed in purchase of Cargo, valued as per Invoice annexed .....	656,685
For Costs in making Claim and Suit £21	

(Signed) ANTONIO JOZE GALVAO.

## Third Enclosure in No. 43.

*Affidavit of Lieutenant Robinson and James Metcalfe, in the Case of the Brazilian Sumacca, "St. Joao Voador."*

PERSONALLY appeared Charles G. Robinson, Lieutenant of His Majesty's Ship of War "Eden," W. F. W. Owen, Esquire, Commander, and lately Prize Officer, of the said Sumacca, and James Metcalfe, late Mate of the Steam Vessel "African," and a Passenger in the said Sumacca, who, being severally sworn, make oath and say:—that the Articles which are annexed in a List hereunto, (A.) and being part of the Provisions, and Sea Stores, said to have been consumed on board the said Sumacca by the Officers of His said Majesty's Ship, is a true and faithful List of all the articles, and their several proportions which were so used and consumed, to the best of their knowledge and belief, and after the most mature and careful recollection, and that the same was generally made use of and consumed by these Deponents and the Master of the said Sumacca, and who were the only persons that messed at the Cabin Table; and that the several articles under the List (B.) were brought on board the said Sumacca by the Deponent, Charles G. Robinson, for the subsistence of the Prize Crew, including the said Deponent, and also the Deponent James Metcalfe, all of whom were rationed for 42 days; and the passage up was performed within that period. That in addition to the Navy allowance, several other articles were put on board for the use of these Deponents, all of which were used in common at the Cabin Table. That the Prize Crew would not use any of the farinha or jerk beef on board the Vessel, and that the same was also unnecessary, as their own provisions were not consumed. That these Deponents never saw more than one swab in use on board the Vessel, and that none were made on the Passage. That the rattling stuff, said to have been used, could not have been used by the orders of the Deponent, Charles G. Robinson, as this Deponent never was aware that any was in the Vessel; and that any sail-twine consumed was solely to repair the Sails of the Vessel. That the 2 copper pumps, stated to have been broken, these Deponents found broken when they came on board; and that care was taken to repair them occasionally, to make them of general use for the persons on board. That to the best of their respective knowledge and belief, there were not more than 2 buckets in use on deck; and which were left in the Vessel when the Deponent, James Metcalfe, arrived and lapped at Sierra Leone. That the Deponent, James Metcalfe, is sure to his own knowledge, that the Long-boat of the said Vessel was only used 4 several days in unlading Stores from the Steamer "African," and some bricks from the Transport; and that any further use made of the said Vessel's Long-boat was to procure water for the use of the said Vessel. That when this Deponent, Charles G. Robinson, took charge of the said Vessel, there was but one pipe of spirits on board, and which was served out to the Crew only of the said Vessel, the Prize Crew refusing to make use thereof. And that when this Deponent, Charles G. Robinson, quitted the said Vessel, he found that the said pipe was only within 10 inches of being full; and further, that the small casks of rum, said to have been used, were not so by any of the Prize Crew, or by any other person, by the orders of the said Deponent, Charles G. Robinson. That 200 fathoms of good rope were brought on board the said Vessel from His Majesty's Ship "Eden," by reason that the said Sumacca was found so badly equipped in that article, part of which still remains on board the said Vessel. That by stress of weather at Sea, the main-topmast of the said Sumacca was carried away, and that nothing but the strops and seizing were cut away to clear the rigging, inasmuch as it could not otherwise be done. And the Deponents further make oath, that no rope, sails, or sail-cloth, other than what was applied to the purpose of mending the sails of the said Vessel, were at any time during their being on board, cut up, destroyed, or made away with. And that the said Master, during the whole time these Deponents were on board, continued to order the Steward of the said Vessel to make such use of the Stores thereof as he thought proper, and was not in any manner interfered with by these Deponents.

(Signed) CHAS. G. ROBINSON.  
JAMES METCALFE.

On the 4th day of February, the above and within-mentioned Deponents were severally sworn to the truth of this Affidavit as far as respectively concerned.

Before me,

(Signed) S. M. MAGNUS, Assistant Registrar.

O

(A.) *Enumeration of Sundry Articles which were used on board the Sumacca "St. Joao Voador," during her Passage to Sierra Leone, in charge of an Officer and Crew from His Majesty's Ship "Eden," viz.—*

About 80 Bottles of Port Wine.	2 Sheep.
1½ Dozen of White Wine.	5 Dozen Fowls.
1 Dozen of Ale.	3 Ducks.
2 Jars of Gin, containing 1 quart each.	1 Turkey (flew overboard.) Error.
20 Pounds of Coffee.	16 Pounds of Butter.
32 Pounds of Sugar.	2 Dutch Cheeses.
2 Pounds of Tea.	8 Pounds of Almonds.
1 Barrel of Biscuit (being an American Flour Barrel)	4 Pounds of Chocolate.
1 Barrel of Flour.	2 Bottles of Liqueur.
1 Bag of Rice.	150 Yams.
2 Pounds of Vermicelli.	8 Gallons of Palm-oil, for the light of the Vessel.
2 Dozen Sausages.	5 Pounds of Camlles.
32 Pounds of Corned Beef.	1 Jar of Sweet-oil (used in cooking.)
1 Hog.	

(Signed) CHAS. G. ROBINSON.

(B.) *Enumeration of Provisions brought on board the Sumacca "St. Joao Voador," for the subsistence of 1 Officer, 1 Passenger, and a Prize Crew of 4 European and 6 Kroomen, viz.—*

1 Cask of Beef, 336lbs.	3 Pounds of Wax Candles.
1 Cask of Pork, 200lbs.	3 Pounds of Butter.
1 Hogshead of Biscuit, 224lbs.	6 Bottles of Gin and Brandy, 1 Bottle Cherry do.
1 Barrel of Flour.	1 Dozen of Port Wine.
9 Gallons of Rum.	1½ Pound of Green Tea.
800 to 1000 Yams of Fernando Po.	3 Dozen of Madeira.
2½ Dozen Fowls.	Cocoa, } Sufficient for Six Weeks, for the whole
1 Sheep.	Sugar, } of the above persons, Navy allow-
4 Pounds of Coffee.	Tea. } ance.

(Signed) CHAS. G. ROBINSON.

#### Fourth Enclosure (A.) in No. 43.

#### *Registrar's Report of Costs, Damages, and Expences, in the Case of the Brazilian Sumacca "St. Joao Voador."*

TO the trusty and well-beloved Joseph Refell, and William Smith, Esquires, His Britannick Majesty's Commissary-Judge, and Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

Whereas by your Decree of the 19th day of January 1828, you pronounced the said Sumacca and Cargo to have belonged as claimed, and Decreed the same to be restored to the Claimant for the use of the Owner and Proprietor thereof, with such Costs of Suit and Special Damages and Expences only, as have been incurred in consequence of the Seizure of the said Sumacca by His Majesty's Ship "Eden," and referred the consideration of such Costs, Damages, and Expences to your Registrar, and that he should report the Amount thereof.

Now I do most respectfully report, that having received an Account of the same, brought in on behalf of the Claimant, on the 29th of January, and having taken the same, together with what was urged by the Agents of the Parties on both sides, into consideration, I am of opinion, that the Claimant is entitled under your said Decree to the several Sums mentioned in the Schedule hereunto annexed.

All of which is humbly submitted by

February 5, 1828.

(Signed) S. M. MAGNUS,  
Acting Registrar.

## Fourth Enclosure (B.) in No. 43.

*Schedule of Costs, Damages, and Expences, in the Case of the Brazilian Sumacca "St. João Voador."*

£	s.	d.		£	s.	d.	£	s.	d.
21	0	0	Claimed as Costs of Suit. Allowed by Agreement between the Parties - - - -	0	0	0	21	0	0
			<i>Special Damages and Expences occasioned to the Sumacca by detention.</i>						
38	14	0	Claimed for sundry Spars and Running Rigging, carried away, parted, lost, destroyed, and cut up. As these Items would have been included in Demurrage, had any been decreed; and as the Affidavit of the Prize Officer, Lieutenant Robinson, and James Metcalfe, fully contradicts any wilful destruction of Property, from neglect or otherwise; and further proves that 200 fathoms of Rope was put on board of the Sumacca from His Majesty's Ship "Eden," by reason of the Sumacca being so badly equipped in this article, part of which Rope is now on board.—I therefore do not allow this Charge - -	0	0	0	0	0	0
86	0	0	Claimed to replace certain Sails, and for Repairs required to others, rotted from exposure to Rain, &c. I do not allow this Charge, as it would be included in Demurrage, had any been decreed - - -	0	0	0	0	0	0
3	0	0	Claimed for Rope Yarns, Rattling Stuff, and Sail Twine, consumed. I do not allow this Charge, as it is proved by the Affidavit of Lieut. Robinson and James Metcalfe, to have been used only for the Sumacca - -	0	0	0	0	0	0
5	0	0	Claimed for Copper Pumps and Buckets broken. I do not allow this Charge, the Affidavit of the abovementioned Persons fully contradicting it - - -	0	0	0	0	0	0
4	0	0	Claimed for sundry Blocks rendered useless. As Demurrage, had any been decreed, would cover this Charge, I therefore do not allow it - - - -	0	0	0	0	0	0
4	0	0	Claimed for Damage done to Cable, in neglecting sarving same - I allow this Item, as it does not appear in Evidence to be contradicted that the Damage was done, nor that it arose from the stated neglect - -	4	0	0	0	0	0
9	0	0	Claimed for Damage done to Long Boat used at Fernando Po, discharging articles from Transport, Steam Vessel, and "Eden," during period of 18 Days. It being in Evidence, by the Affidavit of Lieut. Robinson and James Metcalfe, that out of the period of 18 Days' use of the Boat, claimed for, it was						
Carried forward. . £.				4	0	0	21	0	0

		£	s.	d.	£	s.	d.
	Brought forward.	4	0	0	21		
	used but 4 Days for any other purpose than for watering, &c. the Sumacca; I allow for its use during these 4 Days -	4	0	0	0	0	0
4835000	Claimed for sundry Cabin Stores, consumed subsequent to Capture, by the Officers and Crew of His Majesty's Ship "Eden." I allow for the articles acknowledged by Captors in the Affidavit of Lieut. Robinson and James Metcalfe, to have been consumed - £28 18 2 Less one-third, being the Master's proportion, the Mess consisting of 3 persons, of which he was one 9 12 8½						
2045000	Claimed for Jerk Beef and Farinha consumed. I do not allow this Charge; as the Affidavit of the Prize Officer, as to the quantity of Provisions put on board the Sumacca, for the consumption of the Prize Crew, fully disproves it;—and it also being a well known fact, that British Sailors will not eat this description of provisions - - - -	19	5	5½	0	0	0
1085000	Claimed for 1 pipe, and part of 4 barrels, of Aquadente, said to have been consumed by Captors. I do not allow this Charge; as the beforementioned Affidavit proves, that the greater part of the contents of 1 pipe was on board at the restoration of the Sumacca, and that the part that is deficient was consumed by the Claimant's own people - - - -	0	0	0	0	0	0
3,5325000	Claimed for Freight outwards, as follows:—1,046 rolls of Tobacco, at 2,000 Rs. per roll; 30 pipes Aquadente, at 44,800 Rs. per pipe; 6 cases Merchandize, at 16,000 Rs. per case. The Court not having decreed any Freight to be paid, and the "St. Joao Voador" having landed her outward Cargo some Weeks before detention, I am of opinion the Freight was earned, unless the same was contingent on the return Voyage, and in a given time; and which, by detention, would be lost, but the Master having declared that no Charter Party had been made for the Voyage in which he was taken, and there being no Bills of Lading, or other Documents to throw any light on this subject; I therefore do not allow the Charge - - - -	0	0	0	0	0	0
6,2915000	Claimed for Freight homewards, as follows:—75 Pipes of Palm-oil, at 70,000 per pipe; 60 bales Country Cloths, 120 in each, at 12,000 per bale; 100 Teeth of Ivory, weighing 3,210 pounds, at 100 Reis per lb. The Master having declared, in his Examination on the Standing and Special Interrogatories, the uncertainty attending the Trade in which he was engaged, to be such that Vessels are						
	Carried forward. . £.	27	5	5½	21	0	0



		£	s.	d.	£	s.	d.
	Brought forward.	27	5	5½	21	0	0
	sometimes a Year or more on the Coast, in the prosecution of one Voyage, and that no Charter Party had been made for the return of the "St. Joao Voador" in a given time, there could, consequently, be no defined period for her return to Bahia, and she has now the power to earn her homeward Freight, if it really be composed of the articles enumerated in this Schedule, but which, from the absence of any proof that she had those articles collected, and ready for Shipment, I am strongly inclined to disbelieve. I therefore, on due consideration of all these circumstances, do not admit this charge	0	0	0	0	0	0
160\$000	Claimed for the hire of a Crew to enable the Sumacca to leave the Harbour of Sierra Leone, 10 Men's Wages for 1 Month, at 20\$ each. As no charge for Expences which accrue after the passing of the Decree of Restoration by the Court, can possibly be entertained:—I do not allow this Item	0	0	0	0	0	0
432\$000	Claimed for Special Damage sustained by 18 Days' detention of the Sumacca at Fernando Po, subsequent to Capture. As Demurrage, had any been Decreed, would include this Item, I cannot allow the charge	0	0	0	0	0	0
656\$685	Claimed for 5 per Cent. allowance on Capital employed in purchase of Cargo. The whole of the Samacca's Cargo having been landed prior to Capture, and as the 8th Article of the Regulations for the Mixed Commission, annexed to the Additional Convention between His Majesty and His Most Faithful Majesty The King of Portugal, signed at London, 28th of July 1817, only contemplates this charge for the sum employed in the purchase and maintenance of a Cargo of Slaves;—I do not allow the charge	0	0	0	0	0	0
		0	0	0	27	5	5½
	Amounting to the sum of	£	48	5	5½		

(Signed) S. M. MAGNUS, Acting Registrar.

February 5, 1828.

No. 44.

His Majesty's Commissioners to The Earl of Dudley.—(Received May 9.)

MY LORD,

Sierra Leone, February 26, 1828.

IN accordance with the intention expressed in our Despatch of the 31st Ult., we have herewith the honour to forward to your Lordship, the Supplementary Report in the Case of the Brazilian Schooner "*Vencedora*," Joao Maria Evangelista, Master.

In this Case, my Lord, as well as in that of the "*St. Joao Voador*," the Claimant preferred Charges for Damages he said he had sustained, enormous in their amount, and which he did not support by the least shadow of proof.

P

For the Costs of Suit, and such Special Damages and Expences, as were proved his Schooner had sustained by her detention, together with freight for 250 rolls of tobacco from hence, we awarded to him, on the 21st Instant, the sum of £287 14s. 6d.

The Acting Registrar's Report contains, fully, his reasons for not allowing certain charges, which the Claimant tenaciously pressed in his Schedule of Costs and Damages, and which reasons appeared to us to be perfectly correct. Copy of his Report, together with Copies of the Surveyors' Report, and the Affidavits of the Parties on both sides, which were brought in to him in support of, and against, the Charges preferred, we beg to enclose herewith, for your Lordship's information.

A Copy of the Registrar's Report has, in this Case, been applied for; but, for the same reasons stated to your Lordship in our Despatch of the 25th Instant, enclosing the Supplementary Report of the "*St. Joao Voador*," we have thought proper to refuse it.

In the hope that our conduct in these Cases may meet your Lordship's approval,

We have the honour to be, &c.

(Signed)

JOSH. REFFELL.

WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

#### First Enclosure in No. 44.

#### *Supplementary Report, containing Final Decree in the Case of the Brazilian Schooner "Vencedora," Joao Maria Evangelista, Master.*

THIS Day, in pursuance of the directions of the Court, on the 26th of January last, when it was referred to the Registrar to ascertain the amount of the Costs, Damages and Expences, due to the Claimant in this Case, for the detention of his Vessel, the Schedule of Costs, Damages, and Expences, together with the following Papers, were read, viz.:—

(No. 1.)—Report of William Cole, Frederick Jarvis, and James Stewart, Surveyors.

(No. 2.)—Affidavits of John Scheerer, William Corker, James Owen, and Joseph Davis, in contradiction of the Claimant's charges.

(No. 3.)—Affidavit of John Scheerer, as to the delivering up of the "*Vencedora*."

(No. 4.)—Affidavit of Adalie Henriot, as to the sale of the Schooner last Year.

(No. 5.)—Affidavit of William Cole and T. H. Parker, as to the identity of the "*Vencedora*" being the same Vessel sold by them last Year, and called the "*Eclipse*."

(No. 6.)—Affidavit of Frederick Jarvis and William Cole, Surveyors, relative to the state of the "*Vencedora*."

(No. 7.)—Affidavit of T. H. Parker and Benjamin Campbell, relative to the sale of the "*Vencedora*" since restoration.

(No. 8.)—Affidavit of John Scheerer and William Corker, showing the period the "*Vencedora*" was employed by Captain Owen, of His Majesty's Ship "*Eden*."

And the Report of the Registrar being also read, the Proctor for the Captor prayed the Court to disallow the sums of

£10 10 0 For part of a Bass Cable, cut.

14 0 0 For Anchor lost.

35 0 0 For Hemp Cable, totally damaged.

30 0 0 The amount which would be required to put her in the same state as when detained;

inasmuch as that the Claimant, having preferred a charge for a total loss of his Vessel (which charge the Registrar had refused to allow, upon the ground that the Vessel was in existence, and actually lying in the Harbour, in the possession of the Master, who had, on the day the Court restored her, received her from the Captors), and had not claimed for any Special Damage she had sustained, the Registrar ought not to have allowed those several Sums.

This objection the Court overruled, and stated, that although the Claimant had persisted in charging for a total loss, which was plainly evident could not be maintained, yet the Court did not consider that, in strict justice and equity, he was thereby debarred from receiving the amount of the Damage actually done to his Vessel, and the Evidence of the Captors themselves, together with the Report of the Surveyors, proving beyond all doubt, that she had sustained the Damages stated, the Registrar had very properly allowed them.

The Proctor for the Claimant having offered no objection to the Report, the Court confirmed the same, and thereupon did award and decree that William FitzWilliam Owen, Esquire, the Captor in this Case, do pay unto Joao Maria Evangelista, the Claimant, or unto his lawful Attorney or Attornies, for the use of the Owners and Proprietors of the said Schooner "Vencedora," absolutely and unconditionally, the sum of £39 9s. 0d. for Costs of Suit; the sum of £185 15s. 6d. for Special Damages and Expences, and the sum of £262 10s. 0d. for freight of 250 rolls of tobacco from hence; making a total aggregate sum of £287 14s. 6d. which the Registrar in his Report stated his opinion, the Claimant was entitled to.

(Signed) JOSH. REFFELL.  
WM. SMITH.

Sierra Leone, February 21, 1828.

### Second Enclosure (A.) in No. 44.

#### *Registrar's Report of Costs, Damages, and Expences, in the Case of the Brazilian Schooner "Vencedora."*

TO the trusty and well-beloved Joseph Reffell and William Smith, Esquires, His Britannick Majesty's Commissary Judge, and Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

Whereas by your Decree of the 26th of January 1828, you pronounced the said Schooner and Cargo to have belonged as claimed, and Decreed the same to be restored to the Claimant for the use of the Owner and Proprietor thereof, with such Costs of Suit and Special Damages and Expences only, as have been incurred in consequence of the Seizure of the said Schooner by His Majesty's Ship "Eden," and referred the consideration of such Costs, Damages and Expences, to your Registrar, and that he should report the amount thereof.

Now I do most respectfully report, that having received an Account of the same, brought in on behalf of the Claimant, on the 11th of February, and having taken the same, together with what was urged by the Agents of the Parties on both sides, into consideration, I am of opinion, that the Claimant is entitled under your said Decree to the several Sums mentioned in the Schedule hereunto annexed.

All of which is humbly submitted by,

(Signed) S. M. MAGNUS.  
Acting-Registrar.

February 16, 1828.

### Second Enclosure (B.) in No. 44.

#### *Schedule referred to in Registrar's Report, respecting the Cost of the Brazilian Schooner "Vencedora."*

Bahia, 3de Nvd. de 1827.

FACTURA feita pr. mim abaixo assignado, de Casco, Fabrica, Custo—e Carga da Escuna "Vencedora," Capt. Joao Maria Evangelista Gonzaga, deste Porto da Bahia, pr. os da Costa da Mina, a licito negocio, pr. minha conta e risco, e de quem mais pertencer, a entregar ao mmo. Snr. Capt. auzr. aqm. Suas vezes fizer. Asr.

Nos.	1 to 16	16	Caixas	1600 Pessas de Cambrainhas . . . . .	3600	5,760\$	000
	17 .. 30	14	"	1400 Dittas de Madapollons . . . . .	3900	5,460\$	000
	31 .. 40	10	"	900 Dittas de Chitas de ramaje . . . . .	4800	4,320\$	000
	41 .. 60	20	"	2000 Dittas de Lenços encarnados . . . . .	2400	4,800\$	000
	61 .. 70	10	Barricas	3000 Maços de Micangas sortidas . . . . .	600	1,800\$	000
	71 .. 90	20	"	6000 Dittas de Dittas azuis . . . . .	"	3,600\$	000
	91 .. 110	20	"	30\$ Massos de Avellór . . . . .	100	3,000\$	000
	111 .. 120	10	"	1600 Duzzas de facas cabo de pero . . . . .	700	1,120\$	000
	120 .. 125	5	"	600 Traçados mouriscos . . . . .	600	160\$	000
	126 .. 130	5	"	800 Duzzas de facas cabo live . . . . .	600	480\$	000
						30,700\$	000
				Casco, Custo. e Fabrica . . . . .	"	10,560\$	000
				R's . . . . .		41,260\$	000

Bahia ut Supra.  
(Signed) ANTO. DE PADUA DA CA. PIMENTAL.

## Second Enclosure (C.) in No. 44.

*Schedule of Costs, Damages, and Expences, in the Case of the Brazilian Schooner "Vencedora."*

Reis.		£	s.	d.	£	s.	d.
	Costs of Suit, allowed by Agreement between the Parties - - -	"	"	"	39	9	0
	<i>Special Damages and Expences occasioned to the Schooner by detention.</i>						
319§954	Claimed for Sundry Cabin Stores, consumed subsequent to Capture by the Officers and Crew of His Majesty's Ship "Eden." I allow the whole of the articles said to have been consumed by the Prize Officer and Prize Crew, and I estimate the value by the price of the articles here - - -	42	6	6			
	But the various Affidavits, proving that the Master and Boatswain of the "Vencedora" formed the Mess in conjunction with the Prize Officer, Mr. Scheerer, and that the Master, as well as his own Steward, controlled the supplies daily issued for the Cabin Table, I deduct one third for each of their proportions of what was said to have been consumed, making together two-thirds, or - - -	28	4	4			
576§000	Claimed for 120 arobas of Jerk Beef, totally damaged, at 4 § 800 per aroba. This charge is equal to 9d. per lb. and I consider it to be an exorbitant charge, and shewing the desire of the Claimant to impose upon the understanding of the Court. The Commissioners of Survey and Inspection having reported that the whole of the Jerk Beef was rotten from damage by salt water, and the quantity on board to be about 23 cwt.—I admit that quantity, being equal to 81½ arobas, which can always be procured in the Brazils at 6s. 8d. per aroba, and which sum I allow, making - - -	14	2	2			
		27	3	4			
300§000	Claimed for 200 alquières of Farinha, totally damaged. The Surveyors appointed by the Court having declared about that quantity to be on board, and on being questioned as to the state in which they found it, said, that it was totally damaged by salt water; I therefore admit the Claim for 200 alquières; but as the price, as in the preceding item of the Schedule, is exorbitant, I allow only 2s. 6d. per alquièr, a price fully equal to its value -	25	0	0			
1,500§000	Claimed for 250 rolls of Tobacco, totally damaged, at 600 Reis each Roll. The Affidavit of Mr. Scheerer, the Prize-Officer, and also of William Corker, James Owen, and Joseph Davis, part of the Prize Crew, in regard to this item of the Schedule, being in direct contradiction to that of the Master, whose Claim						
	Carried forward. : £.	66	5	6	39	9	0

		£.	s.	d.	£.	s.	d.
	Brought forward, . . .	66	5	6	39	9	0
	rests upon his unsupported Affidavit;—I required proof that the damage the Tobacco is said to have sustained was actually as asserted, and therefore, on the 13th Instant, requested Messrs. William Cole and Frederick Jarvis, Surveyors, to proceed on board the "Vencedora," to ascertain this fact, and whether the number claimed for was actually on board, with other points for my guidance in estimating the damages sustained.						
	The annexed Affidavit of those Gentlemen, shows that they were obstructed in so doing by a person of the name of Fernandez, who said he was in charge of the Vessel.						
	It might therefore be presumed, that the number was not as stated: and I must conclude that the Master's Affidavit is false, and that Messrs Cole and Jarvis could only have been prevented from viewing the state of the Tobacco, and ascertaining the number of Rolls on board, from fraudulent motives, and in order that the Court should not be acquainted with its actual injury; for I cannot imagine, that, if it were in the state the Master swears it is, he, or any other person on his behalf, would object to its being viewed for my guidance, in estimating the amount of damage it had sustained; and, in the absence of Evidence to disprove Mr. Scheerer's, and the Prize Crew's Depositions, that it is in the same state as when the "Vencedora" was detained, I cannot allow any part of this Charge.						
4,589\$000	Claimed for Freight, outwards, on 1,000 rolls of Tobacco, at 2,000 Reis per roll; 27 pipes of Rum, at 44,800 do. per pipe; 60 cases dry Goods, at 16,000 do. per case; 70 casks do. at 6,000 do. per cask.						
	The outward bound Cargo (with the exception of 250 rolls of Tobacco) having been landed, the Freight was earned, unless the same had been made by Charter Party, contingent on the return Voyage, and in a given time; and which, by the detention, would be lost;—but the Master, in his Examination, swears this was not the case, "no Charter Party having been made for the Voyage in which he was taken."—I therefore do not allow the Charge.						
	But through the "Vencedora" having been detained while she was in the act of daily discharging her outward Cargo, she was prevented from delivering the 250 rolls of Tobacco now on board; and, from the Vessel being in an unseaworthy state, she cannot now deliver it.—I therefore allow 5s. per Roll, for Freight, from hence - - -	62	10	0			
6,000\$000	Claimed for Freight of Cargo home-wards, lost by the Capture of the Vessel (calculating the same in proportion to the value of the outward Freight).						
	This is, in my opinion, a most improper method of submitting Claim for						
	Carried forward, . . . £.	128	15	6	39	9	0

	£.	s.	d.	£.	s.	d.
Brought forward ..	128	15	6	39	9	0
the gross amount of Freight home- wards, as it is impossible for the Re- gistrar to ascertain its correctness; and, on that principle alone, I do not see how I can entertain such an unsup- ported Claim for so large a sum for Freight, for a Vessel of only 120 tons burthen, without the specification of the articles, and the rate per ton, she was actually to receive;—and notwithstand- ing this Schedule of Costs, Damages, &c. was returned to the Claimant's Proctor; for such specification, no particulars or proofs are attempted to be produced.						
And the Court having, by its Decree in this Case, in not allowing Demurrage, by reason of the "Vencedora's" Slave- trade outfit, implied its opinion that her ultimate intention was to take from this Coast a Cargo of Slaves; and which opinion is corroborated by the pertin- acity with which the Claimant refused to give any particulars, as to the articles of which such Freight would have been composed, or how estimated; together with the absence of any proof that she had, in the prosecution of her trade, purchased any Palm-oil, Ivory, &c., I do not allow the Charge.						
10,560,000						
Claimed for the prime Cost of Vessel, Tackle, Apparel and Furniture, as per Invoice, the same being ren- dered unseaworthy, and having sus- tained damage in consequence of the use and detention thereof, by His Majesty's Ship "Eden," sub- sequent to Capture. Deduct there- from the value of the Vessel in her present state, and as she now re- mains at anchor in the Harbour of Sierra Leone.						
The Master having in a former Sche- dule of his Costs, Damages, and Ex- pences, claimed for a total loss of his Vessel, which the Court had on the day of adjudication positively refused to en- tertain, the Vessel then being in exist- ence and lying in the Harbour, ready to be delivered up to the Claimant, which was subsequently carried into effect by the Master's receiving her, I deemed it my duty to return the Schedule for re- vision, by expunging therefrom the sum of 10,560,000 Reis, therein claimed for a Total Loss. The sum charged is, how- ever, pertinaciously adhered to; the only addition has been, the amount to be de- ducted for the value of the Vessel here, which is left blank, and I conceive is not the duty of the Registrar to fill in: and which the Claimant could so readily have inserted, had he not, for reasons which may readily be inferred, kept back the information, when it is known to have been proved, by the Affidavits of Messrs. Campbell and Parker, that she is actually under engagement to be sold for a much larger sum than, as appears by the Affi- davit of Messrs. Cole and Parker, the Commissioners of Appraisement and Sale, and that of Mrs. Henriot, she was originally sold for here; and the						
Carried forward .. £.	128	15	6	39	9	0



	£.	s.	d.	£.	s.	d.
Brought forward - -	128	15	6	39	9	0
Surveyors having reported that she appears to be in a very defective state, and must have been so in their opinion for the last 12 Months (which includes more than the length of period when she was sold in this Colony,) and that they do not perceive any material injury she has sustained lately, only from the Rigging not being properly set up; and that her present leaky condition arises from old age, decay and rottenness; which Evidence fully negatives the extravagant demand of the Claimant for her value; it must, therefore, be evident that she never could, since the present Owners took possession of her, have had such repairs, as would amount to the enormous sum charged, (fully equivalent to the purchase of a new Vessel of her class and description,) nor is there the least authority for presuming otherwise; for even the Master, although he swears the charge is true and just, does not produce any corroborative Evidence in support of it; that which he relies on, being a quotation from the Invoice, is any thing but the Invoice Charge for the Schooner, viz. :—						
Casco Custo, e Fabrico, 10,560,000; and I, therefore, do not allow this Charge.						
But I allow for such Special Damages as she has actually sustained, and I estimate that damage according to the information I have received from the Surveyors, and from the evidence already before the Court as follows :—						
A part of a Bass Cable cut - -	10	10	0			
Anchor lost with same, about 5 cwt. at 4 Guineas per cwt., less one third for use - - - -	14	0	0			
Hemp Cable, half-worn, damaged by laying in salt water in the Hold, as per Affidavit of the Surveyors - -	35	0	0			
Amount which would be required to put her in the same state as when detained, according to the Surveyors' Affidavit of 13th Instant - - - -	30	0	0			
I allow for the period of 5 days the Schooner has been employed by His Majesty's Ship "Eden," in landing guns, as appears by Affidavits of John Scheerer and William Corker, at £6 per day - - - - -	30	0	0			
Claimed for 5 per Cent allowance on Capital employed in purchase of Cargo						
As the 8th Article of the Regulations only contemplates this charge for the sum employed in the purchase and maintenance of a Cargo of Slaves, I do not allow the Charge - - - -				248	5	6
Amounting to the sum of - - - -			£	287	14	6

Registry Office, February 16, 1828.

(Signed)

S. M. MAGNUS, Acting Registrar.

## Third Inclosure (A.) in No. 44.

*Affidavit of the Master of the Brazilian Schooner "Vencedora."*

APPEARED personally, Joao Maria Evangelista, Master of the said Schooner, who, being duly sworn, saith, the annexed is a true and faithful Account of Damages sustained by reason of the Seizure and Detention of the said Vessel, and that the same are all and severally charged at a fair and reasonable rate; and this Deponent further saith, that the whole of the provisions and articles of food therein enumerated, were actually consumed by the Officers and Crew of His Majesty's Ship of War "Eden," and His Majesty's Steam Vessel "African," subsequent to the Detention of the said Schooner; and this Deponent further saith, that the charges for Freight are such as are usually paid and received at Bahia, in the Brazils; and this Deponent further saith, that all and singular the Damages sustained and Charges contained and enumerated in the annexed Claim, are and is, in every respect and particular, just and true; and this Deponent further saith, that the said Vessel was taken, subsequent to Capture, to Fernando Po, where she was detained for 18 days, and was employed by the Captors in landing heavy guns, and in other services; and this Deponent further saith, that on getting the said Schooner under weigh, on her departure from Fernando Po, for this Port of Sierra Leone, the said Vessel was got on a reef of rocks, where she remained a considerable time; and this Deponent saith, that, at the time of the Capture and Detention of the said Schooner, to wit, on the 24th day of October last past, she only made 5 inches of water per hour, and no more; that in consequence of her having been employed at Fernando Po, in landing guns, as aforesaid, the said leak encreased considerably; that, subsequent to the Vessel getting off the reef of rocks beforementioned, it was discovered the Schooner made 30 inches of water per hour, and that, during the whole of the Passage to this Port from Fernando Po, the pumps were constantly employed; and this Deponent lastly saith, that, in consequence thereof, the said Vessel hath now become totally unseaworthy, and unserviceable.

(Signed) JOAO MARIA EVANGELISTA.

On the 8th day of February 1828, the said Joao Maria Evangelista  
was duly sworn to the truth of this Affidavit, before me,  
(Signed) S. M. MAGNUS, Acting Registrar.

## Third Enclosure (B.) in No. 44.

*Claim of the Master of the Brazilian Schooner "Vencedora."*

THE Claim of Joao Maria Evangelista, on behalf of Joao Antonio Monteiro, Antonio de Padua d'Acinha Pimentel, Manoel Antonio d'Acrux, and Manoel Joaquim Alvea, the sole Owners and Proprietors of the said Vessel and Cargo, for Costs, Damages and Expences in the said Case, pursuant to a Decree of Restitution of the said Vessel, dated the 26th of January 1828.

*For Costs of Articles as hereunder are enumerated, the same being consumed, subsequent to Capture, by the Officers and Crew of His Majesty's Ship of War "Eden."*

1 barrel of Port Wine, containing 140 bottles, say 11 dozen and two-thirds	at 3,600 Reis per dozen	- - -	42,000	
10 lbs. of Chocolate,	at 800 do. per lb.	- - -	8,000	
16 lbs of Butter,	- at 400 do. do.	- - -	6,400	
10 cases of Sweetmeats,	at 400 do. per case	- - -	4,000	
64 lbs. of Sugar	- at 4,000 do. per aroba of 25lbs.	- - -	10,240	
2 casks of Biscuit,	at 5,600 do. each	- - -	11,200	
32 lbs of Coffee,	- at 4,800 do. per aroba	- - -	6,144	
3 lbs of Tea,	- at 1,600 do. per lb.	- - -	4,800	
24 bottles of Ale,	- at 2,400 do. per dozen	- - -	4,800	
10 jars of Gin,	- at 400 do. each	- - -	4,000	
90 Fowls	- - - - -	- - -		7,200
1 Hog	- - - - -	- - -		7,200
3 large bags of Rice	- - - - -	- - -	19,200	
6 Goats, at 2,400 Reis, each	- - - - -	- - -		14,400
96 lbs. of Bacon (given to the Kroomen)	- - - - -	- - -	9,600	
200 Yams	- - - - -	- - -		12,000
1 barrel of Flour	- - - - -	- - -	11,200	
32 lbs. of Sausages	- - - - -	- - -	12,800	
1 case of Raisins	- - - - -	- - -	2,400	
32 lbs. of Macaroni	- - - - -	- - -	10,120	
8 lbs. of Barley	- - - - -	- - -	3,200	
6 jars of Lisbon Brandy	- - - - -	- - -	4,800	
120 arobas of Jerk Beef, totally damaged, at 3,200 Reis per aroba	- - - - -	- - -	384,000	
Carried forward	- - - - -	- - -	558,904	40,800



Brought forward	- - - - -	558,904	40,800
200 alquieres Farinha, totally damaged, at 1,000 Reis per alquiere	- - - - -	200,000	
8 Canadas Castor Oil, consumed for the Binnacle	- - - - -	12,800	
1 pipe of Rum, consumed by the Crew of His Majesty's Ship "Eden"	- - - - -	96,000	
16 lbs Tallow Candles	- - - - -	3,200	
250 rolls of Tobacco, totally damaged, at 4,000 Reis each	- - - - -	1,000,000	
		1,870,904	
50 per Cent. advance	- - - - -	935,452	
			2,806,356
For Freight of Cargo Outwards, as follows:—			
1000 rolls of Tobacco at 2,000 Reis each	- - - - -		2,000,000
27 pipes of Rum " 44,800 " " - - - - -	- - - - -		1 209,600
60 cases of dry Goods " 16,000 " " - - - - -	- - - - -		960,000
70 casks of ditto " 6,000 " " - - - - -	- - - - -		420,000
For Freight of Cargo homewards, lost by the Capture of the said Vessel (calculating the same in proportion to the value of the outward freight)	- - - - -		6,000,000
For the prime cost of Vessel, Tackle, Apparel and Furniture, as per Invoice, the same being rendered unseaworthy, and having sustained damage in consequence of the use and detention thereof by His Majesty's Ship "Eden," subsequent to Capture	- - - - -	10,560,000	
Deduct therefrom the value of the said Vessel in her present state, and as she now remains at anchor in this Harbour of Sierra Leone	- - - - -		
5 per Cent. allowance on Capital employed in purchase of Cargo, valued as per Invoice	- - - - -		1,829,500
For Costs in making Claim and Suit	- - - - -		

(Signed) JOAO MARIA EVANGELISTA.

## Third Enclosure (C.) in No. 44.

*Affidavit of Seamen belonging to the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, Manoel Francisco de Silva, Boatswain of the said Schooner "El Vencedora," Joaquim Joze, Steward of the same, and Joze Francisco, a Seaman on board thereof, who, being severally and respectively sworn on the Holy Evangelists of Almighty God, make oath and say as follows,—and first, these Deponents of their own knowledge say, that at the time of the Seizure and Detention of the said Vessel by His Majesty's Steam Vessel "African," to wit, on the 24th day of October last past, the said Schooner "El Vencedora," only made 5 inches of water; and these Deponents further say, that the said Vessel was carried to Fernando Po, where she remained for 18 days; that the said Vessel was then and there employed in landing heavy guns from His Majesty's Ship-of-War "Eden," in the following manner, to wit,—the said Schooner was moored fore and aft, her stern fastened on Shore, and an anchor a-head tight to keep her steady—the guys of the sheers, by which the guns were landed, were made fast on board the said Schooner, which caused a heavy strain on the hull of the Vessel; and these Deponents further say, that at the time the said Schooner was got under weigh, upon taking her departure from Fernando Po to this Port, she was got on a reef of rocks, where she remained nearly half an hour; and these Deponents all say, that on getting off the said reef of rocks, the said Vessel made a considerable quantity of water, which thenceforward daily increased; and these Deponents further say, they verily believe that the said Schooner sustained much damage thereby.—And this Deponent, Joaquim Joze, for himself saith, he was Steward on board the said Vessel, and that at the time of the Capture thereof, the provisions, wines and other Cabin stores, enumerated and described in the Claim made for the said Vessel and Cargo, for Costs, Damages and Expences, which this Deponent, hath seen and heard read, were all actually on board the said Vessel, and that the same were all consumed by the Officers and Crew of His Majesty's Ship-of-War "Eden," and His Majesty's Steam Vessel "African;" and this Deponent further saith, that he was accustomed to serve out the said stores, provisions and wines daily, and that not less than 2 bottles, and frequently more, of the said wine, were delivered out by this Deponent for the use of the persons who messed on board the "El Vencedora;" and this Deponent further saith, that Mr. Scheerer frequently carried away chocolate and sweetmeats to His Majesty's Steam-vessel "African." And the Deponent, Manoel Francisco de Silva, of his own knowledge saith, that 1,000 rolls of tobacco were originally laden on board the said Vessel at Bahia, and that the number on board the same at the time of Capture was upwards of 250.

(Signed) MANOEL FRANCISCO DE SILVA.

His  
JOAQUIM X JOZE.  
Mark.

His  
JOZE X FRANCISCO.  
Mark.

On the 8th day of February 1828, the said Manoel Francisco de Silva, Joaquim Joze, and Joze Francisco, were each and severally duly sworn to the truth of this Affidavit,

Before me, (Signed) S. M. MAGNUS, Actg. Registrar:

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## Fourth Enclosure (1.) in No. 44.

*Report of Commissioners of Survey and Inspection, in the Case of the Brazilian Schooner "Vencedora."*

To the Honourable Joseph Reffell, Judge, and William Smith, Esquire, Arbitrator, acting in the absence of the Portuguese Judge and Arbitrator.

IN pursuance of a Commission of Survey directed to us, We, on the 29th of January 1828, proceeded on board the Schooner, called "*Vencedora*," of the burthen of 120 tons, or thereabouts, lying at anchor in the Harbour of Freetown, and do now report as follows:—

That she is an American-built Vessel, and appears to us to be at least 15 Years old; that she has been but slightly fastened, all of which fastenings are iron, and very rusty and decayed.

The outside plank is a mixture of Brazil wood and Cedar, the timbers are all Oak, the ceiling Fir, throughout, wanting planks in several places.

The beams are also of Fir. We discovered a butt started on the starboard side, abaft the fore-channels under the copper, which we consider to be the principal leak, making about 18 inches per hour.

The Bow-frame of the Vessel is started above the upper breast hook, which appears to us to be occasioned from the neglect of the rigging not having been properly set up.

All the recent repairs we can discover are a new rudder, and on the starboard side 14 feet of covering board, 12 stanchions, a rough tree-rail on the larboard side, 5 stanchions, 8 boards in the bulwark, about fifty superficial feet.

That she is coppered, but the same appears very old:—her hull is in a very rotten bad state, and, in our opinion, cannot be sufficiently repaired in this Port to render her seaworthy.

We found about 5 coils of rope, rove as running rigging on the outfit of this Voyage, weighing about 500 cwt., she has 1 new topmast; new sails, viz., 1 mainsail, 1 fore-topsail, 1 jib, 1 fore-topgallant sail, 2 topmast studding sails, 2 awnings.

We found a bower cable, about half worn, in the fore-hold, evidently damaged from the late leakage.

We further report, that the said Vessel appears to us to be in a very defective state, and must, in our opinion, have been so for the last 12 Months past, and we do not perceive any material injury she has sustained lately, only from the rigging not being properly set up.

All of which we are ready to affirm to upon oath, if so required, which is humbly submitted by

(Signed), WM. COLE, Surveyor to the Courts of Mixed Commission.  
FREDK. JARVIS, Master of the Schooner "*Dianna*."  
JAMES STEWART, Master of the Brig "*Dalmarnock*."

## Fourth Enclosure (2.) in No. 44.

*Affidavits of the Master's Assistant and others, of His Majesty's Ship "Eden," in the Case of the Brazilian Schooner "Vencedora."*

APPEARED personally, John Scheerer, Master's Assistant of His Majesty's Ship of War "*Eden*," W. F. W. Owen, Esquire, Commander, who, being duly sworn, makes oath and says, that on the detention of the said Schooner "*Vencedora*," by Lieutenant Badgley, this Deponent was put on board as Prize Officer of the said Schooner, and continued as such until she arrived at Fernando Po, and also from Fernando Po unto Sierra Leone. That, at the request of the said Master, Joao Maria Evangelista, this Deponent messed with the said Master and the Boatswain, Manoel Francisco de Silva, and did partake in common with them of the provisions and wine brought to the table of the said Master. That, during the Passage to Fernando Po, this Deponent requested of the said Master, that he would allow the Prize Crew, under the command of this Deponent, to receive from his stores a certain quantity of rum; and the said Master did, for the space of 8 days, deliver daily about 1 quart of rum or spirits, for the use of the whole of the said Prize Crew. And that this Deponent never did receive, take, or cause to be taken, any further quantity of rum or spirits than the said 8 quarts, during the whole period he remained in charge of the said Schooner. That, at the time the said Schooner was taken possession of, she was found to make from 10 to 12 inches of water each hour, and continued so to do until arrived at Fernando Po. That while lying there, there was a line passed from a purchase fixed on Shore, for the purpose of steadying the same, but that no weight or strain of any kind, beyond that of raising the sheers, after they had been slackened to admit certain guns being lowered therefrom; and that 3 men were employed so to do. That, in getting under weigh, the said Schooner, at Fernando Po, touched the ground with her fore foot, and remained aground nearly 10 minutes; that there was a perfect calm at the time, and not the least swell of the Sea; and that the moment a line could be brought on board, which was fastened to a tree on the opposite side of the Bay in which the said Schooner then was, she was hauled off without any difficulty; and that this Deponent, on examination, found she did not make any more water than she had done upon her first arrival at Fernando Po. And that from the said Place, until the said Schooner arrived nearly in the Latitude of Sierra Leone, she did not make more water; but that, on arriving off Sierra Leone, the said Schooner experienced severe weather and Harmattan winds, and laboured much in the rolling sea that took place on the Harmattans dying away, and then began to make about 24 inches of water each hour. That Deponent verily believes the said increase of leakage was solely occasioned by the old and rotten state of the Vessel, and the opening of her seams by the

dryness of the said winds, and her labouring as aforesaid. And Deponent further says, that the roll tobacco on board the said Schooner, was, at the time of his leaving the said Vessel, on the promulgation of the Decree of Restoration pronounced by the Court of Mixed Commission in favour of the said Vessel, in the same state and quantity as when the said Vessel was first detained. That the said tobacco was once moved for the purpose of trimming the said Vessel, but again put back to its former place; and was at all times kept from being wet by water, by being placed on the water casks stowed in the said Vessel; that the farinha was also, when Deponent quitted the Vessel as aforesaid, as far as he could perceive, in the same state it had been at time of Seizure, it being placed within a caulked bulk head, and was stirred up and examined by the Commissioners who first surveyed the said Vessel in search of irons, and was then found uninjured; that the jerk beef became damaged by the water getting to it; but, in the opinion of this Deponent, who had various opportunities of examining the same, did not exceed in weight 600 pounds. That there was a cask of port wine, which Deponent believes did not contain 20 gallons, from time to time drawn off and brought for use at the Mess-table of the said Master; that Deponent not liking the said wine, afterwards refrained to use the same, and is sure, during the whole time of his remaining on board, that he never consumed equal to 12 bottles; and that he only drank chocolate about a dozen times, but received a present from the said Master of 4 cakes of chocolate and 2 small boxes of sweetmeats, which Deponent took with him on board the Steamer "African;" that he never had any butter while on board the said Vessel; that he believes, with the 2 cases this Deponent before alluded to, that there were 10 cases of sweetmeats made use of. That Deponent messed on board the said Schooner 80 days, and had sugar to tea and coffee mostly twice each day; and therefore he is sure that he did not consume above 5 pounds of sugar during the whole time he was on board. That there were 2 casks of biscuits consumed, also 3 pounds of tea, and 24 bottles of ale, but only 2 jars of gin were used by this Deponent. That 1 fowl was killed by order of the said Master, for use, before making Fernando Po; and that while at that Place, Deponent saw several fowls purchased by the said Master for a few iron hoops; but that there never were more than 50 fowls on board, during the Passage from Fernando Po to Sierra Leone, some of which fowls were left on board when this Deponent quitted possession of the said Schooner. That Deponent knows that 1 pig, about 1 bag and a half of rice, and 4 goats, were also made use of in common; the said goats having been purchased at Fernando Po, with iron hoop. That Deponent never did order, or is he aware that any pork was issued to any Kroomen on board the said Schooner, under the command of this Deponent. That the whole of the Prize Crew, including Deponent, were rationed at full Navy allowance for 42 days, and had about 1,000 yams on board, for their use; and that, therefore, this Deponent cannot believe, and does not believe, that any yams were used by this Deponent, or his men, belonging to the said Master. That Deponent never had flour for his use, in any way, while on board the said Schooner. That he believes, about 16 pounds of maccaroni, 8 pounds of barley, and 2 jars of brandy, were used in common in the mess. That, for 18 days, while at Fernando Po, this Deponent never messed in the said Vessel, but on board the Steamer "African;" but that during that time the Master continued on board, and messed there. That Deponent believes, about 3 gallons of oil, belonging to the said Schooner, was consumed in her binnacle; oil was also supplied from the "Eden," and some was made by the Prize Crew, on their Passage, from a shark. That no sails, ropes, or rigging, belonging to the said Schooner, were ever cut up, destroyed, or made away with; but that she being found deficient in rope, about 40 fathoms were brought from the "Eden," for the use of the said Schooner. That during the whole time this Deponent was on board, both before arriving at Fernando Po, and after leaving that Place, the Master had always the full and entire controul over the expenditure of the stores and provisions of the said Schooner.

(Signed) JOHN SCHEERER.

On the 11th day of February 1828, the said John Scheerer  
was duly sworn to the truth of this Affidavit,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

And the said John Scheerer further makes oath, that Manoel Francisco de Silva, the Boatswain of the said Schooner, on her arrival at Fernando Po, and 2 days after the same, was removed from the said Schooner to His Majesty's Ship "Eden," where he remained, and never came again on board the said Schooner until the day before the said Schooner left the said Island. And that by reason of the said Ship of War "Eden" lying on a different side of the said Island than that on which the said Schooner lay, and about a quarter of a mile distant, nothing which took place on board the Schooner could be seen from the "Eden," as only the masts of that Vessel were in sight from the Schooner.

(Signed) JOHN SCHEERER.

On the 11th day of February 1828, the said John Scheerer  
was duly sworn to the truth of the above Affidavit,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

PERSONALLY appeared, William Corker, James Owen, and Joseph Davies, who, being duly sworn, severally maketh oath and say, that Deponents, William Corker, and Joseph Davies, are Seamen, and Deponent, James Owen, a Petty Officer of His Majesty's Ship of War "Eden," and were all employed as part of the Prize Crew put on board the said Schooner under the command of Mr. Scheerer. That the Deponent, William Corker, joined the said Schooner when she was first taken possession of off Whydah; that at the time the said Schooner was so detained, she was found to make nearly 12 inches of water each hour, and continued to do so until her arrival at Fernando Po, and while she lay there. That this Deponent, James Owen, went on board the said Schooner 3 or 4 days previous to her leaving Fernando Po for Sierra Leone: that in getting under weigh from the said Island, the wind died away, and it fell a dead calm, when the said Schooner

drifted and grounded on her fore foot, that she only remained so until a boat went for a line which was fastened to a tree on Shore, when she was immediately and without any difficulty hauled into deep water; that about 10 minutes or a quarter of an hour was the full extent of time the said Schooner was so aground. That on the day after leaving Fernando Po, this Deponent, William Corker, personally sounded the well, and then found that the said Schooner still continued to make about 12 inches each hour, and these Deponents, William Corker and James Owen, severally make oath, that the said Schooner continued to make the same quantity of water until about 14 days before she arrived at Sierra Leone, when she encountered strong Harmattan winds, which on dying away, caused a rolling sea; that they severally believe, that the dryness of the said winds and the labouring of the Vessel occasioned by the swell, caused the said Schooner to increase her leak and she then made nearly 24 inches each hour. And these Deponents do further say, that they have examined the state of the said Vessel, and do believe that she is very old and decayed, and that otherwise the said winds and sea would not have any such effect upon her. And this Deponent, William Corker, further says, that the roll tobacco on board the said Schooner was, on the day that the said Vessel was detained, in the same state to all appearance as it was when the said Vessel was given up; and these Deponents do severally further say, that they could not perceive that the said tobacco was in any manner injured, all of it being perfectly dry and placed out of the reach of the leak on the water-casks; and to the best of their knowledge and belief, not a single roll, or part of a roll, has ever been taken and removed from the said Vessel while any of these Deponents were on board thereof, or that the said Vessel was in charge of the Captors. And that, in like manner, the farinha on board the said Vessel was left in the same state that it was found when they respectively joined the said Vessel; that all the jerk beef in the after run of the said Vessel was damaged by the leaking of the said Vessel, and in the opinion of these Deponents was as much as could be produced from 3 bullocks of ordinary size, but that some jerk beef in the hold was not damaged, and was left on board when Deponents quitted the Vessel, and in their opinions equal to what could be produced from one ordinary sized bullock; and this Deponent, William Corker, was on board the said Schooner while at Fernando Po, when a line was made fast to the said Schooner, which was done for the purpose of keeping in an upright position the sheers which were fixed on Shore, and employed to raise some guns to their proper places, and that no strain or weight of any consequence, so as to affect the state of the said Vessel, could possibly be thereby made on the said Vessel. And the Deponent, Joseph Davis, was present when the said Schooner was delivered up to the Master, and had been on board 11 days previous thereto, and he did not perceive, although he often had occasion to have full opportunity for so doing, and was daily below, any damage that the roll tobacco or farinha had sustained. And these Deponents, William Corker and James Owen, make oath and further say, that they were rationed from His Majesty's Ship "Eden," and did never make use, nor did they receive any part, of the stores or provisions of the said Schooner, for their subsistence from Fernando Po to Sierra Leone, nor while lying in the Harbour of Sierra Leone before restoration; and the Deponent, William Corker, further makes oath, that for several days after the Capture of the said Schooner, and until her arrival at Fernando Po, the Master of the said Schooner, at the request of Mr. Scheerer, did issue from the rum belonging to the Vessel, about a quart each day, for the general use of the Prize Crew; and the Deponent, William Corker, further says, that the Boatswain, Manoel Francisco de Silva, was on the second day of the arrival of the said Schooner at Fernando Po, taken therefrom and put on board His Majesty's Ship "Eden," where he remained until the day before the said Schooner left Fernando Po for Sierra Leone; and that no person could see what passed on board the said Schooner from the deck of the "Eden," as only the masts of the "Eden," were visible from the Schooner, the said Ship of War "Eden," being on the other side of the Island of Fernando Po; and this Deponent further says, that no pork was ever given to any Kroomen belonging to the "Eden," for their subsistence, while this Deponent was on board the said Schooner, that is from the time of Capture until she was restored.

(Signed)

His  
WILLIAM X CORKER.  
Mark.

His  
JAMES X OWEN.  
Mark.

His  
JOSEPH X DAVIS.  
Mark.

On the 11th day of February 1928, the said William Corker, James Owen, and Joseph Davis, were severally sworn to the truth of this Affidavit as respectively concerned.

Be ore me,

(Signed)

S. M. MAGNUS, Acting Registrar.

## Fourth Enclosure (3.) in No. 44.

*Affidavit of the Prize Officer of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, John Scheerer, Master's Assistant of His Majesty's Ship of War "Eden," W. F. W. Owen, Esquire, Commander, who, being duly sworn, makes oath and says, that he was put on board the said Vessel as Prize Officer on behalf of the said Ship of War, and had charge of the said Vessel until the day of her restoration by the Sentence of the Court of Mixed Commission. That on the 26th day of January last, the day of pronouncing the said Sentence, this Deponent having heard the same pronounced, immediately repaired on board the said Vessel, and upon arriving on board, found the Boatswain and Steward of the said Vessel on board, and soon after the Master also came on board, upon which this Deponent informed the said Master, that the "Vencedora" was now belonging to him the Master, and that this Deponent and his men would instantly leave her. That the said Master replied, he would not have the said Vessel, and that he would suffer her to sink. That a little while before this Deponent left the said Vessel with his baggage, the said Master asked this Deponent to leave some of the men under the command of this Deponent on board, to pump the said Vessel, which this Deponent refused to do, as having no further business with the said Vessel, and Deponent quitted the said Vessel, leaving the Master, Boatswain, and Steward, on board. And Deponent further says, that before leaving the said Vessel, he caused her to be pumped out. And Deponent further says, that after he had repaired on board His Majesty's Schooner "Horatio," he noticed that the Boat of the said Schooner was removed to the Brigantine "Voador," and this Deponent could not see any person on board the said Schooner. That on the following morning, Deponent saw a number of men go from the Brigantine with the Boatswain, who on their arrival on board commenced pumping the said Schooner, and Deponent took notice that it took the said men more than 4 hours continual pumping, with both pumps, before they got the said Schooner clear of water. And Deponent is of opinion, that from his leaving the said Schooner on the 26th Instant, and until the following day, at 7 in the Morning, that no one was employed to pump the said Vessel, inasmuch as this Deponent saw, in the Morning aforesaid, that the said Schooner had sunk nearly 1½ foot down in the water, and required such a length of time to clear her of water.

(Signed) JOHN SCHEERER.

On the 12th day of February 1828, the said John Scheerer was

duly sworn to the truth of this Affidavit,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

## Fourth Enclosure (4.) in No. 44.

*Affidavit of Adalie Henriot, Wife of the Captain of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, Adalie Henriot, who, being duly sworn, makes oath and says, that some time in the Month of March, in the Year 1827, her husband, now absent from this Colony, did purchase at Public Vendue, the Schooner "Eclipse," and which she is informed, and does believe, is the same Vessel now lying in this Harbour, and called the "Vencedora." That the sum of £95 was paid by her Husband, Nicolas Ambrose Henriot, for the said Vessel, and she was by him delivered over to certain Portuguese Masters and Mates then in this Colony, belonging to sundry Prize Vessels, and they among themselves raised the said amount, and that after purchase by her Husband as aforesaid, the said Portuguese Masters and Mates said that the Vessel was in such a bad condition, and so old, that she was not worth the money which her Husband had bought her at, and although his bidding was at their instance and request, yet when they had seen the said Vessel, they seemed unwilling to receive and pay for the said Vessel, but that afterwards they did so. And this Deponent is sure that no profit was made by the said Nicolas Ambrose Henriot on his said purchase, but that the said Portuguese only paid the amount bid for the said Vessel at Auction.

(Signed) A. HENRIOT.

On the 12th day of February 1828, the said Adalie Henriot was

duly sworn to the truth of this Affidavit,

Before me

(Signed)

S. M. MAGNUS, Acting Registrar.

## Fourth Enclosure (5.) in No. 44.

*Affidavit of the Commissioners of Appraisement and Sale, in the Case of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, William Cole and Thomas Harrison Parker, who being duly sworn, make oath, and say, that they do firmly believe that the Vessel now in the Harbour,

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and called the "*Vencedora*," is the same Vessel which these Deponents, as Commissioners of Sale to the Court of Mixed Commission, sold in the Month of March 1827, to Nicolas Ambrose Henriot, a Resident of this Colony, for the sum of £95.

(Signed) WM. COLE,  
THOS. H. PARKER,

Commissioners of Appraisement and Sale.

On the 13th day of February 1828, the said Deponents were

duly sworn to the truth of this Affidavit,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

#### Fourth Enclosure (6.) in No. 44.

##### *Report of Surveyors, respecting the Condition of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, William Cole and Frederick Jarvis, who, being respectively duly sworn, make oath and say, that they had duly examined, as far as in their power, the state of the hull of the said Schooner, on their repairing on board the same, some time back, by direction of the Court; and proceeded this day, at the request of the Registrar, to further examine the said Vessel, and to say, in their opinion, what it would cost to put the said Vessel in the state she was in at the time of Capture; and they do think £30 would be fully adequate thereto, although that, from not being permitted to go on board the said Vessel by the Person in charge thereof, these Deponents found this their opinion solely from their former survey; and this day, viewing the outside of the said Vessel, that these Deponents do consider that the leak abast the starboard fore-channels was occasioned by the rottenness of the plank, whereby the nails were not able to hold the butt-ends to their proper places; and that they do not consider that the same would have taken place from the grounding of the said Schooner. And Deponents further say, that they found, damaged, in the hold of the said Vessel, a hemp cable, about 90 fathoms in length, by which a loss has arisen to the Owner, in their opinion, of £35, and that the said damage took place, in their opinion, solely by being left in the salt water, which leaked into the Vessel. And Deponents further say and make oath, as their opinion, that the said Vessel is unseaworthy, from her old age, and from not having had, from time to time, such repair, care, and attention, as was requisite.

That these Deponents are unable to say any thing respecting the damages (if any) done to the roll tobacco on board the said Vessel, by reason that they were prevented from proceeding on board this day, by the person in charge or care thereof, Mr. Fernandez.

(Signed) WM. COLE, Surveyor to the Court of Mixed Commission,  
FRED. JARVIS, Master of the Schooner "*Dianna*."

On the 13th day of February 1828, the said William Cole and

Frederick Jarvis were duly sworn to the truth of this Affidavit,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

#### Fourth Enclosure (7.) in No. 44.

##### *Affidavit of Messrs. Parker and Campbell, in the Case of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, Thomas Harrison Parker and Benjamin Campbell, who, being respectively duly sworn, severally maketh oath and say, that the Deponent, Thomas Harrison Parker, some few days ago, and since the restoration of the said Schooner "*Vencedora*" by the Decree of the Court of Mixed Commission, had a conversation with Walter Atkin, Merchant, of this Colony; and the said Walter Atkin informed this Deponent, that he had sold the Brig of him the said Walter Atkin unto Mr. Fernandez, for the sum of £1100, whereof £900 was to be paid him, the said Walter Atkin, in cash, and that he, the said Walter Atkin, was to receive the said Schooner "*Vencedora*," she being valued at £200, for the remainder. And further, the said Walter Atkin informed this Deponent, that he had again sold the said Schooner "*Vencedora*" unto a Person by the name of Coutes, for the sum she had been valued at to him. And this Deponent afterwards learnt, that the said Coutes was obliged to relinquish his bargain solely on account of not being able to procure Papers. And the Deponent, Benjamin Campbell, makes oath and says, that, since the restoration of the aforesaid Schooner "*Vencedora*," this Deponent saw Walter Atkin at the Office of Kenneth Macaulay, Esquire, when the said Walter Atkin informed this Deponent that he had just sold his Brig to Fernandez for £1100, but that he had agreed to take the Schooner "*Vencedora*" for £200, as part payment; and that a day or two after so meeting with the said Walter Atkin, he, the said Walter Atkin, called upon this Deponent, at the house of Deponent, and asked Deponent to purchase the masts of the Schooner "*Vencedora*," as he, the said Walter Atkin, had been informed the masts of the Tender "*Horaio*" were defective, which offer this Deponent declined.

(Signed) THO. H. PARKER,  
BN. CAMPBELL,

On the 14th day of February 1828, the said Thomas Harrison

Parker and Benjamin Campbell were severally sworn to the truth of this Affidavit, as respectively concerned,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

Fourth Enclosure (8.) in No. 44.

*Affidavit of the Master's Assistant, and a Seaman of His Majesty's Ship  
"Eden," in the Case of the Brazilian Schooner "Vencedora."*

PERSONALLY appeared, John Scheerer, Master's Assistant of His Majesty's Ship of War "Eden," W. F. W. Owen, Esquire, Commander, and William Corker, Seaman, also of the said Ship, who, being severally duly sworn, make oath and say, that they were present on board the said Schooner "Vencedora," the whole of the time, 18 days, the said Schooner lay at anchor at Fernando Po, the Deponent, John Scheerer, being in charge thereof, and these Deponents do severally make oath, that the whole of the period any guns were landing from the "Diadem" Transport, or any other Vessel, was 5 days, and that only 8 guns were landed, and that the work of landing the said guns could only be performed for about 3 or 4 hours each day, inasmuch as the Boat, in which the said guns were embarked, could not, beyond that period each day, approach sufficiently near to the purchase so as to be removed therefrom; that no Person belonging to the said Schooner was called upon to lend any assistance in the said landing; and these Deponents further say, that there was a line made fast from the sheers to the said Vessel, and which line was only made use of 3 or 4 hours, each of the 5 several days the said sheers were employed on Shore, disembarking the said guns; being so made use of to keep the said sheers steady and upright, and to permit the raising of the sheers after they had been lowered about 4 feet, which lowering was to enable the said guns to be put into their proper places; and that 3 men were always fully sufficient to raise the said sheers.

(Signed)

JOHN SCHEERER.

His

WILLIAM X CORKER.

Mark.

On the 15th day of February 1828, the said John Scheerer and  
William Corker were severally sworn to the truth of this  
Affidavit, as far as they were respectively concerned,

Before me,

(Signed)

S. M. MAGNUS, Acting Registrar.

No. 45.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 19.)*

MY LORD,

Sierra Leone, May 27, 1828.

WE have the honour to enclose, for your Lordship's information, the Report of the Case of the *Brazilian* Schooner "*Esperanza*," Joze da Silva Rios, Master, captured by His Majesty's Ship "*Sybilie*," Commodore Francis Augustus Collier, C. B., off Lagos, situated deep in the Bight of Benin, and so well known as the principal Slave Emporium on the Western Coast of Africa.

The "*Esperanza*" was furnished with a Royal Passport, No. 6, conformable to the Treaty, dated Bahia, March 28, 1828, authorizing her to proceed to Cabinda, and take on board 422 Slaves, with the usual prohibitory Clause, that she was under an obligation to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire.

The Defence set up in this Case was, that the Vessel had not touched, or anchored, at any Port or Place during the present Voyage, nor had, since her departure from Bahia, seen Land prior to Capture, but that she was pursuing her direct route to Cabinda, and that her course was at all times, when the weather permitted, directed to her destined Port.

The Evidence filed in this Case, being entirely at variance with this Defence, Sentence of Condemnation was passed upon her on the 26th Instant.

We beg your Lordship's reference to the Report, which contains the particulars under which we felt it our duty to condemn her, and have the honour, &c.

(Signed)

D. DENHAM.

WM. SMITH.

*The Right Hon. The Earl of Dudley*

&amp;c.

&amp;c.

&amp;c.

Enclosure in No. 45.

*Report of the Case of the Brazilian Schooner "Esperanza," Joze da Silva Rios, Master.*

ON the 10th day of May, the Brazilian Schooner "*Eperanza*," whereof Joze da Silva Rios, was Master, and owned by Joze Alves de Cruz Rios, of Bahia, arrived in the Harbour of Sierra Leone, having been detained by His Majesty's Ship "*Sybille*," Commodore Collier, C. B. Commander, on the 13th day of April last, off Lagos, in the Bight of Benin.

On the 12th day following, the Ship's Papers, and the Declaration of the Captor, were filed in the Cause, duly authenticated by the Affidavit of Mr. Samuel Richardson, Admiralty Mate of His Majesty's said Ship "*Sybille*."

On the same Day a Monition, citing all Parties interested to appear, was prayed for and granted, which went forth and was returned, certified to have been duly served, on the 19th of the same Month.

Commodore Collier, in his Declaration, states, that "being in Latitude 6. North, and Longitude 3. 35. East, in sight of the Port of Lagos, he detained the "*Esperanza*," and sent her to Sierra Leone for adjudication, for a manifest breach of the Treaty and Convention between Great Britain and Portugal, and of his Passport, No. 6, granted at Bahia, the 28th day of March 1828, authorising her to carry a Cargo of 422 Slaves from Cabinda."

The Passport of the "*Esperanza*," was granted by Joze Egidio Gordilla de Barbuda, Vice-President of the Province of Bahia, authorizing her to take on board 422 Slaves from Cabinda, with the usual prohibitory Clause, that of being under an obligation to enter solely such Ports on the Coast of Africa where the Slave-trade is still permitted to the Subjects of the Empire of Brazil.

The Master, being duly sworn on the 16th, deposed, "that the Owner, Joze Alves da Cruz Rios, appointed him to the command of the Schooner taken, and that he resides at Bahia; that he, the Master, did not know upon what pretence, or for what reason, she was seized; that the present Voyage commenced at Bahia, and was to have ended there; that Bahia was the last clearing Port the "*Esperanza*" sailed from, and that she had not touched or anchored at any Port or Place during the present Voyage, nor had he, since he departed from Bahia, seen Land prior to Capture." He further deposed "that the Capturing Ship was first seen between 5. and 6. North Latitude, on the 36th day of the Voyage, it being on the 13th of April last; the "*Esperanza*" was captured on the same day, about 3 hours after seeing the Capturing Ship; she was pursuing her Voyage to Cabinda, when she was first pursued; that her course was not altered, nor any additional sail made on the appearance of the Capturing Ship, her course having been at all times, when the weather permitted, directed to her destined Port; that the Cargo on board was to have been delivered at Cabinda; and that no Slaves had been taken on board during the present Voyage.

The Mate, Francisco de Souza, deposed to the same points, *verbatim*, with the exception, that although the Vessel's course was directed to her destined Port, when the weather permitted; the prevalent winds would not permit a direct course being made.

On the 17th, a Claim was made for the "*Esperanza*" and Cargo, in the usual form, by Joze da Silva Rios, the Master, on behalf of the Owner, Joze Alves da Cruz Rios.

The Master, in his Affidavit in support of his Claim, swore, "that she was in the prosecution of her Voyage from Bahia to Cabinda, on the Coast of Africa, but offered no observations therein, as to the cause of her being so far to the Northward of the Line, nor any other points of defence."

On the 22d, an Affidavit of the Master of the "*Sybille*," with an annexed Extract from the Log of His Majesty's said Ship, was filed, the original Log being produced to the Registrar at the time of his swearing to the Affidavit. This Extract states, "that on Sunday, 13th April 1828, at 9. 50. A.M., saw the Land North by East, and a Ship, 2 Schooners, and a Brig at anchor in Lagos Roads, and a Schooner under weigh; shortened sail, lowered the topsails, wore at 12, Lagos North 20 Miles; at 12. 15: bore up, and made all sail in chase, fired 2 guns, Chase shewed Brazilian Colours; 2. 30. shortened sail; hove to, and boarded the Brazilian Schooner "*Esperanza*" from Bahia."

On the 23d, the Proctor for Claimant petitioned the Court to allow Special Interrogatories to be put to Master and Mate, to shew, that the Vessel while engaged in the present Voyage was duly protected by the tenour of the Treaties between Great Britain and Portugal, and the Brazil, relative to the Slave-trade, which was granted, and on the day following, the 24th, the Master deposed, "that the Schooner was steering S.S.E. when he first saw the Capturing Ship; at the time of the Capture, the cables of the Vessel were in the hold, and the anchors on deck; the cables were stowed away in the hold aft the main mast; he had not made soundings before Capture, nor had he seen Land on the Coast of Africa, at any time during the Voyage in which he was captured. He was not able from the time of leaving Bahia to make a direct course, as he saw a Privateer, which chased him for 3 days, when he got into bad weather, which sent him to the Northward of the Line; he was captured in 5. 33. North Latitude, and Longitude 3. 35. East; he does not know what description of Cargo is necessary to trade for Slaves along the Coast of Africa, from 6. North to the Line, as he had only been engaged in Voyages to the Southward. The Cargo he had on board the Vessel was not adapted for the trade of that part of the Coast just alluded to, it was calculated for the trade at Cabinda; that to the Southward of the Line his main-mast was damaged by bad weather, and he intended proceeding to Princes Island to repair the damage of the mast, where he was proceeding when captured; that during the Voyage he was chased by a Buenos Ayres Privateer for 3 days; he did not receive from the Commander of the Capturing Ship any Certificate or Document relative to the Seizure of his Vessel or Papers; and that the Capturing Ship was under French Colours when she detained her."



The Mate, in his Deposition, to the same Interrogatories, swore to many points exactly the same as the Master, but he contradicted him in several important ones; for he deposed, "that she was not bound to any other Place than Cabinda; and that when the Vessel was chased to the Southward of the Line by the Buenos Ayres Privateer, the courses steered to avoid her were N.N.E., N.E. by N.  $\frac{1}{2}$  N., N. by E.  $\frac{1}{2}$  E. and N.E., and by N."

This Evidence closed the Case, and on the 26th day of May, the Court met, and after hearing the arguments of the Proctors on both sides, pronounced the following Judgment:—

This is the Case of a *Brazilian* Vessel detained without any Slaves on board, but under precisely similar circumstances to those which were adjudicated in this Court, in the Months of April and May last Year. The principles on which the Court felt it its duty to condemn those Vessels were so fully explained in the Judgments pronounced on each Case, and which principles have been unequivocally approved of by His Majesty's Government, that it will not now occupy the time and attention of the Court in going into those minute details which was last Year felt to be necessary.

The facts of this Case are comprised within a very small compass. Her detention took place to the Northward of the Equator, off that most notorious Slave-mart Lagos; she is fitted up and equipped in every respect for the Slave-trade, and, in furtherance of that object, obtained from the Government of Bahia a Passport, (which she is required by Treaty to take to protect her in that Traffick) to ship Slaves from Cabinda, with the usual prohibitory Clause, "that it was obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of *Brazil*," and those Ports are strictly confined between the 5. 12. and 18. Degrees of Latitude, South of the Equator.

It has been argued, that she had not entered any Port from her leaving Bahia, and was in the prosecution of her Voyage to Cabinda.

The Evidence given by the Mate has been relied on to shew, that this Vessel was compelled to come to the Northward; he swears that he steered for 3 successive days North Easterly, occasionally varying a little, more or less, to escape a Privateer, and it certainly appears, if the Chart is examined, to have been the most favourable course that could be steered, for coming into the usual track of Vessels bound from the Southward to the West Coast of Africa. And here it must be remarked that this Evidence is totally at variance with the Master's, who swears on his first examination to the 9th Interrogatory, that her course was at all times, when the weather permitted, directed to her destined Port, and in his subsequent examination on Special Interrogatories, he swears, he steered, during the time he was chased by a Buenos Ayres Privateer, for Cabinda. Here there is no mention, nor indeed in any part of his first examination, of being forced to the Northward by an Enemy; but even if she had been forced to the Northward and Eastward, when they found themselves no longer pursued, the proper course to have taken, would have been that which led direct to Cabinda. Did she take this course? No! she continued her course to the Northward.

The Evidence of the Master is also at variance with that of the Mate in several other points. The Master swears, that, to the Southward of the Line, his main-mast was damaged by bad weather, and he intended proceeding to Princes Island, to repair the damage of the mast, where she was proceeding when captured. The Mate's answer to the very same question is, that she was not bound to any other Port than Cabinda. In all the Master's depositions he swears he was always steering for Cabinda; he therefore has contradicted himself in the Evidence he has given, and his Mate also contradicts him most positively: how then are these contradictory assertions to be reconciled? do they not clearly shew strong collusion between the Master and the Mate to tell the exact same tale? they have notwithstanding failed in doing so; but if their Evidence was founded on truth, this would not be the Case. Another point shews most clearly the little dependence to be placed on the Master's Evidence. To one of the Special Interrogatories put to him he swears, "that he does not know what description of Cargo is necessary to trade for Slaves along the Coast of Africa, from 6. North to the Line, as he has only been engaged in Voyages to the Southward." The latter part is grossly false, for he was found trading last Year down in the Bight of Benin, to the Northward, in a Vessel called the "*Trajano*," detained and subsequently condemned; but it that were not sufficient to prove his statement false, the very next answer to the special question out of his own mouth condemns him. To that he says, "the Cargo he had on board was not adapted for the trade of that part of the Coast just alluded to (the North,)" it was calculated for the Trade at Cabinda. Now if he did not know the trade to the Northward of the Line, how could he take upon himself to swear that the Cargo of the "*Esperanza*," was not adapted for it? If he knew the Cargo he had on board was not adapted for it, he must consequently know what was, and therefore the whole of his Evidence can be deserving of but little credit, particularly when it is well known to this Court that the Cargo of his Vessel is suited for the trade, and that those engaged in the Slave-trade think false swearing no crime, if, by so doing, they can obtain restoration of their Vessel. The only point on which he has told the truth, is the Latitude and Longitude he was in, on the day he was detained, that was a point he could not avoid, and to the pertinacious swearing of both himself and Mate, "that they had not seen Land during this Voyage," must be opposed the Extract of the Log from His Majesty's Ship "*Sybilie*,"—"she saw 4 Vessels lying in Lagos Roads at anchor, and a Schooner under weigh, which subsequently proved to be the "*Esperanza*," on the Morning of Capture;" if therefore His Majesty's Ship could so clearly distinguish Vessels and their Class lying in the Roadstead, Land must have been clearly seen, and as the Schooner appears to have been inside of the Frigate, it must have been equally clear to those on board of her, and consequently they must have known full well where they were.

On reference to his Log, it will be found, that on the 18th of April, being then in Latitude 4. 7. North, and Longitude 4. 25. W., with the wind at South East, she steered East by North, with the intention, it must be presumed, of making the land. And here it must be remarked that, in that Latitude on the Coast of Africa, a South wind is not known, the Harmattan blows from E. to N.E., and the usual Sea breeze S.W. If she was really going to Cabinda, her course would

have been on the other tack, but instead of doing so, she keeps continually making Northing and Easting, until the day she was taken. If the Longitude was really correct, the Latitude he was for several days in, would place the Vessel on Land; but assuming the Longitude to be incorrect, and that he was not aware of it, he must have been perfectly aware of his Latitude, and that going Northerly was not the route to Cabinda, which lies far to the Southward. If, therefore, Cabinda was really her destination, and she had been forced by adverse winds to the Northward, what ought to have been the proper course? why, most certainly to put her upon the wind, and have gone off the Coast on the starboard tack, and not to have run down deep into the Bight of Benin, where the winds and currents are directly opposed to her getting to the Southward of the Line, and the Port she was bound by Passport to go to. This is a point which can admit of no contradiction, and, therefore, motives, which the Court consider to be any thing but innocent, must have actuated such conduct.

There is not yet one instance on record in the Courts, nor have any of His Majesty's Squadron yet fallen in with a Vessel, *bond fide* bound from Brazil direct to Molembo or Cabinda, having been captured to the North of the Equator, nor a single instance of a Vessel, *bond fide* bound for Brazil direct from Cabinda, ever having been met with to the North. This, therefore, is a convincing proof, if any were required in addition to what has been stated, that Vessels really bound to Ports South of the Equator, are not under the necessity, in getting there, of coming to the Northward, or, in returning, of placing themselves in the same situation.

The abstract right of *Brazilian* Vessels to come to the Northward of the Equator for innocent purposes has not been questioned. It is quite clear that this Vessel had not an innocent character; if, therefore, the Subjects of *Brazil* enter into a Compact to go to the Southward of the Equator to trade for Slaves, and violate that Compact by coming to the Northward, which is expressly forbidden, they cannot with justice complain if the provisions of the Treaty are put in force against them, for their own culpable and fraudulent acts.

It is not a little remarkable in this Case, that the Master of this Vessel is the same man who was Master of the "*Trajano*," condemned last Year for precisely the same breach of Passport. He, therefore, cannot even have a shadow of excuse for the violation of it on this Voyage; he must have been fully aware of the penal consequences attached to such conduct, and it is therefore to be inferred, that he did so in open defiance; it is, however, yet to be seen, if the measures this Court have considered it their duty to take, in Cases like the present, will not have the effect of checking such glaring abuses, for such abuses will most assuredly be visited with the confiscation of the Vessel and Property. The Court, therefore, condemns the "*Esperanza*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden on board, as lawful Prize unto the Crowns of Great Britain and *Brazil*, taken by His Majesty's Ship "*Sybil*," Commodore Francis Augustus Collier, C. B. Commander:

(Signed) D. DENHAM.  
WM. SMITH.

## No. 46.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, September 22, 1828.

I HAVE to communicate to you the accompanying Copies of Correspondence, which passed in March and April last, between His Majesty's Secretary of State for Foreign Affairs and the *Brazilian* Envoy at this Court,\* upon the subject of the proposed nomination, by the Viscount D'Itabayana, of an Individual to be Commissary Judge on the part of The Emperor of *Brazil*, in the Mixed British and *Brazilian* Court of Commission at Sierra Leone

I am, &c.

*His Majesty's Commissioners.*

(Signed) ABERDEEN.

\* See Class B.

## No. 47.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, September 25, 1828.

I HEREWITH transmit to you the Copy of a Letter, dated the 23d Ult., and of its Enclosures, from the Viscount D'Itabayana, *Brazilian* Minister at this Court,\* containing the Appointment of *Mr. Joseph de Paiva* to be Commissary Judge, on the part of The Emperor of *Brazil*, to the Mixed

\* See Class B.

British and *Brazilian* Commission at Sierra Leone; and I have to acquaint you, that the same having been referred to His Majesty's Advocate General for his opinion, that Officer has reported, that the Appointment of *M. Joseph de Paiva*, to be Commissary Judge of the Mixed British and *Brazilian* Commission at Sierra Leone, under the Convention of the 23d of November 1826, appears to be in due and proper form, so as to entitle *M. de Paiva* to enter upon the execution of the Office to which he is appointed.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

No. 48.

*His Majesty's Commissioners to John Backhouse, Esq.—*  
(Received November 10.)

SIR,

*Sierra Leone, July 5, 1828.*

IN pursuance of the 75th Clause of the Act, passed in the 5th Year of the reign of His present Majesty, entitled "An Act to Amend and Consolidate the Laws relating to the Abolition of the Slave-trade," we beg to enclose a Return of all the Cases of *Portuguese* and *Brazilian* Vessels adjudicated in the British and *Portuguese* Court of Mixed Commission established here, from the 1st of January 1828, to the 1st of July 1828.

We have the honour to be, &c.

(Signed)

H. LUMLEY.

JOHN WM. BANNISTER.

*John Backhouse, Esq.*

&c. &c. &c.

## Enclosure in No. 48.

*Return of Portuguese and Brazilian Vessels, adjudicated by the British and Portuguese Court of Mixed Commission established at Sierra Leone, from the 1st day of January 1828 to the 1st day of July 1828.*

Name of Vessels.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.
St. Joso Voador . . .	Oct. 23, 1827	{ Sumacca and Cargo . . . }	{ W. F. W. Owen, } { H. M. S. Eden }	Jan. 19, 1828	Restitution . . . . .	{ Sumacca and Cargo delivered up to the Master.
El Vencedora	Oct. 24, —	{ Schooner and Cargo . . . }	{ W. F. W. Owen, } { H. M. S. Eden }	Jan. 26, —	Restitution . . . . .	{ Schooner and Cargo delivered up to the Master.
Esperanza . .	April 13 1828	{ Schooner and Cargo . . . }	{ F. A. Collier, } { H. M. S. Sybille }	May 26, —	{ Condemned for a breach of her Imperial Passport, marked No. 6, dated Bahia, 1st of March 1828, which obligated her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Brazilian Empire, and against the true intent and meaning of the 1st and 2d Articles of the Additional Convention to the Treaty with Portugal of the 22d of January 1815, signed at London, the 28th of July 1817, as the same are subsequently adopted and renewed by the 2d Article of the Convention between His Majesty and The Emperor of Brazil, dated the 23d of November 1826. . . . . }	{ The Schooner and Cargo sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry.
Voadora . . .	April 19, —	{ Schooner and 234 Slaves . . }	{ W. F. W. Owen, } { H. M. S. Eden }	June 16, —	Condemned for illicitly Trading in Slaves . . . . .	{ Both of these Vessels and their Cargoes were sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry.
Vingador . . .	May 16, —	{ Brig and 645 Slaves . . . }	{ F. A. Collier, } { H. M. S. Sybille }	June 16, —	Condemned for illicitly Trading in Slaves . . . . .	{ Both of these Vessels and their Cargoes were sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry.

(Continued.)

Enclosure in No. 48, continued.

Name of Vessel.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.
Terecira } Losalia. }	April 20, 1828.	{ Schooner and Cargo. }	{ Septimius Arabin, H. M. S. North Star }	June 17, 1828.	[ Condemned for a breach of her Imperial Passport, marked No. 1, dated Bahia, 7th of February 1828, which obligated her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Brazilian Empire, and against the true intent and meaning of the 1st and 2d Articles of the Additional Convention to the Treaty with Portugal of the 22d of January 1815, signed at London the 28th of July 1817, as the same are subsequently adopted and renewed by the 2d Article of the Convention between His Majesty and The Emperor of Brazil, dated the 23d of November 1826..... ]	[ The Schooner and Cargo sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, the Accounts not having yet been returned into the Registry. ]

Mem.—The Proceeds of the Sale of the Schooner “Dianna,” reported in the last Return, as being in the hands of the Commissioners of Appraisement and Sale, has since been paid into the Military Chest.

(Signed)  
H. LUMLEY.  
JOHN WM. BANNISTER.

Sierra Leone, July 1st, 1828.

(Signed) JOSH. REFFELL, Registrar.

## No. 49.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Nov. 10.)*

MY LORD,

Sierra Leone, July 7, 1828.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 31st of March last, approving of the view taken by His Majesty's Commissioners in the Case of the *Brazilian* Sumacca "*St. Joao Voador*," and of the Decree pronounced thereon, as contradistinguished from those of the *Brazilian* Vessels adjudicated under the same Commission in the Year 1827.

We are happy to have this Communication from your Lordship, as it affords to us a sure guide in any Cases of a similar nature, which may be brought before the Mixed Commissions.

We have the honour to be, &amp;c.

(Signed)

H. LUMLEY.

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

## No. 50.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

Sierra Leone, August 8, 1828.

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the *Brazilian* Schooner "*Voadora*," condemned on the 16th of June 1828, in the British and *Portuguese* Court of Mixed Commission established here, when the surviving Slaves belonging to her were emancipated.

This Vessel was seized on the 18th of April last, by Lieutenant Badgley, in a Boat belonging to His Majesty's Ship "*Eden*," at the Mouth of the River Cameroons, she having on board at the time, 234 Slaves shipped in that River.

She arrived here for adjudication on the 23d of May 1828, with 45 of the said Slaves, after having been conducted to Fernando Po, where 187 of them were landed in consequence of sickness and the crowded state of the Vessel, having lost 2 on the passage to this Port.

I deem it my duty to draw your Lordship's attention to the circumstance of these Slaves having been landed at Fernando Po, and most respectfully to point out, that, although in this instance, Captain Owen appears to have used great caution, in causing a Board of Survey to assemble in order to Report on the state of the Vessel, and the health of the Slaves, and to have been influenced in landing them, by the opinion of the Medical Officer, still, the disembarkation of Slaves before their arrival at their destination, unless very urgent reasons indeed demanded it, is subject to great objection, and, while it is not contemplated by the Treaties, it is likely to be laid great stress on by the Owners of Slave-vessels; as a proof of this, the Master in this instance has set forth, in the Petition to be allowed to file his Claim, "That the extraordinary proceeding of your Petitioner's Vessel having been deprived by the Captor, while she lay at Fernando Po under his controul, of 186 of the Africans on board thereof, is a proceeding which your Petitioner, on behalf of the Owner of the said Vessel and Cargo of Slaves, is desirous of obtaining the Judgment of your Honourable Court:" 19 of these Slaves, (children) landed at Fernando Po, and disembarked, as it was stated, for medical treatment, were subsequently sent here in another Vessel; 17 of which arrived, and have since been registered, the other 2 having died on the passage up.

I also beg leave to state to your Lordship, that it appears in Evidence, that the medicine chest of this Vessel was taken out of her by Captain Owen,

for the publick service at Fernando Po, as also 30 bags of farinha, and 30 bags of jerked beef, the former being valued by the Medical Officers of that Establishment at £40 sterling, and the latter valued by two persons under the authority of Captain Owen, at £30 1s. 3d. sterling, making together a sum of £70 1s. 3d. sterling, which Captain Owen appears, from his own handwriting, to have received from the Treasury at Clarence Town, Fernando Po, and which, not having been paid into the Registry here, Captain Owen will, therefore, account for to His Majesty's Government.

This Vessel during the present Voyage was boarded twice on the 26th of February last, to the Northward of the Equator, by Ships of the Squadron, as appears by indorsements on her Register, viz. by His Majesty's Ship "North Star," off Cape Lopez, and by His Majesty's Brig "Clinker," off Cape Nazareth.

I have the honour to be, &c.

(Signed)

JOHN WM. BANNISTER.

The Right Hon. The Earl of Dudley,

&c.

&c.

&c.

Enclosure in No. 50.

*Report of the Case of the Brazilian Schooner "Voadora," Antonio Luiz Gonzago, Master.*

THIS Vessel, of the burthen of 119 tons, with a Crew of 20 Men on her Muster roll, and belonging to Antonio Joze Meirelles, of Rio Janeiro, left that Port, as appears by her Clearance, (there being no Log among the Papers,) about the 23d or 24th of December 1827, furnished with an Imperial Passport, numbered 565, and dated the 19th of December 1827, authorizing her to take a Cargo of Slaves from Cabinda and Molembo.

On the 19th of April 1828, being then in or about Latitude 4. 1. North, and Longitude 9. 13. East, she was detained by a Boat from His Majesty's Ship "Eden," having on board at the time 234 Slaves, shipped in the River Cameroons.

On the 22d of May 1828, the Vessel reached this for adjudication, with 45 of the Slaves, 2 having died on the passage up from Fernando Po, to which Island she had previously been conducted, where 187 of her Slaves were landed, in consequence of sickness, and the crowded state of the Vessel.

And on the 23d of May 1828, her Papers were brought into the Registry, and the usual Motion being prayed for, was granted, returnable on the 2d of June, on which date it was returned into Court duly certified.

On the 3d of June 1828, the Master petitioned to be allowed, simply, to file his Claim for the Vessel, and the Slaves, on behalf of the Owner, Antonio Joze Meirelles, of Rio Janeiro, as also the attestation in proof thereof, which was granted.

From the Evidence of the Master, on the Standing Interrogatories, it appeared, that he took the command of this Vessel at Rio Janeiro, in December 1827, at which Place the Voyage began, and was to have ended; and that the Vessel had only anchored and touched, since leaving Rio Janeiro, at the River Cameroons, the wind being contrary for Molembo, when finding he could get Slaves cheap, he purchased those found on board the Vessel by the Capturing Ship's Boat.

This Evidence, so far as proving that the Slaves were shipped in the River Cameroons, was confirmed by one of the Crew, also examined on the Standing Interrogatories.

No Evidence having been filed by the Master in support of his Claim, the Court pronounced Judgment on the 16th of June, in this Case, and declared this Vessel to have violated the Treaty and Convention between Great Britain and Portugal, as the same are adopted and renewed by the 2d Article of the Treaty between Great Britain and Brazil, and to have been, therefore, justly seized and detained. The Court accordingly condemned the "Voadora," her Tackle, Apparel, and Furniture, as good and lawful Prize to the Crowns of Great Britain and Brazil, and decreed the emancipation of the surviving Slaves belonging to her in the Colony, viz. 44 in number, as also the 187 landed at Fernando Po, or the survivors of them; and that there were on board, at the time of Capture, 234 Slaves, of whom 3 had died, before the passing of this Sentence; the said Vessel having been so seized by His Majesty's Ship "Eden," William FitzWilliam Owen, Esquire, Commander.

(Signed)

JOHN WM. BANNISTER.

No. 51.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the Brazilian Brig "Vingador," condemned on the 16th of June 1828, in the British and Portuguese Court of Mixed Commission established here, when the surviving Slaves on board of her were emancipated.

This Vessel was seized, on the 16th of May last, in or about Latitude 4. 45. North, Longitude 1. 30. East, by Lieutenant Turner, commanding the Tender of His Majesty's Ship "Sybille," Commodore Collier, C. B., Commander, and having on board at the time 645 Slaves, shipped at Lagos 2 days before the Capture.

She arrived here for adjudication on the 3d of June 1828, in company with the Tender, having lost 21 of the Slaves on the passage up.

I beg to draw your Lordship's attention to the circumstance of this Vessel (formerly called the "*Prince of Guinea*") having been taken once before in August 1826, after considerable resistance, by the Tender of His Majesty's Ship "Maidstone," and sold here by publick auction, under a Decree of the Court, on which occasion she was purchased for Commodore Bullen, who, after having for some time employed her as a Tender, resold her on this Coast to a Foreigner, from whom she appears to have been transferred to her late Owner at Bahia.

I have the honour to be, &c.

(Signed) JOHN WM. BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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Enclosure in No. 51.

*Report of the Case of the Brazilian Brig "Vingador," Miguel Antonio Netto, Master.*

THIS Vessel, described as of the burthen of 276½ tons, manned with 45 Men, (of whom 14 were entered in the Role d'Equipage as Slaves,) and said to be owned by Joze de Cerqueira Lima, of Bahia, left Rio de Janeiro, on the 4th of April 1828, furnished with the usual Imperial Passport, numbered 590, and dated at the latter Place, the 27th day of March preceding, authorizing her to proceed to the Ports of Cabinda, for any number of Slaves, not exceeding 691, and on the 15th of May 1828, being then in or about Latitude 4. 45. North, and Longitude 1. 10. East, she was detained by Lieutenant Turner, of His Majesty's Ship "Sybille," commanding the Tender of His Majesty's said Ship, and sent here for adjudication, for having on board 645 Slaves, said to have been shipped at Lagos 2 days before Capture.

She arrived here, in company with the Tender, on the 3d of June 1828, and on the following day the Papers of the Vessel were brought into Court, duly authenticated, and the usual Monition went forth, returnable on the 12th, on which date it was returned into Court, certified by the Marshal to have been duly executed.

From the Log of the Vessel, it was evident that the intention of coming to the Northward of the Equator was premeditated, as she steered the usual course of the illicit Traders, which, the Evidence of the Master and the Mate, (the Witnesses examined on behalf of the Captors,) corroborates. From their answers to the Standing Interrogatories, it appeared that the Voyage commenced at Rio de Janeiro, and was to have ended there; that the Vessel anchored and touched, in the course of it, at Lagos, to trade for Slaves, at which Port she took on board 645 Slaves, one of whom died before the Vessel's Capture, and further, that the said Slaves were consigned to one Felipe Ribeiro de Cunha, of Rio de Janeiro, where they were to be delivered for the real account, risk, and benefit, of the Owner of the Vessel, the aforesaid Joze Cerqueira Lima.

No Claim having been made on behalf of the Owner of the Vessel and Slaves, and the Evidence filed, clearly establishing her illicit employment, the Court met on the 16th of June 1828, and on motion of the Captor's Proctor, declared the "*Vingador*" to have been, at the time of her Seizure, illicitly employed in the Slave-trade, and, therefore, justly seized and detained, and the Court accordingly condemned this Vessel, together with the Goods, Wares, and Merchandize laden on board her, as good and lawful Prize to the Crowns of Great Britain and Brazil, and decreed the emancipation of the surviving Slaves, 624 in number, and that it appeared, from the Evidence, that there were on board the said Vessel, when so seized, 645 Slaves, 21 of whom had subsequently died; and further, that the said Vessel had been so seized, and prosecuted, by Francis Augustus Collier, C. B., Captain, and the Officers and Crew of His Majesty's Ship "Sybille."

(Signed) JOHN WM. BANNISTER.

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No. 52.

*J. W. Bannister, Esq. to The Earl of Dudley.—(Received November 10.)*

MY LORD,

*Sierra Leone, August 8, 1828.*

HEREWITH I have the honour to enclose, for your Lordship's information, the Report of the Case of the *Brazilian* Schooner "*Terceira Rosalia*,"



condemned on the 17th of June 1828, in the British and *Portuguese* Court of Mixed Commission established here, for a violation of her Imperial Passport, in being engaged in the Slave-traffic to the Northward of the Equator.

This Vessel, furnished with the usual Passport, to take Slaves from Cabinda, was seized on the 20th of April last, by His Majesty's Ship "North Star," Septimius Arabin, Esquire, Commander, who stated in his Declaration, that he detained her for a breach of the existing Treaties between Great Britain and *Brazil*, she being at the time at anchor off Popoe, a Port to the Northward of the Equator; and accordingly sent her here for adjudication, where she arrived in the Evening of the 17th of May 1828.

In referring your Lordship to the Report, for the particulars of this Case, I beg to explain, that the cause which led to the delay in bringing the Vessel to adjudication, arose out of the illness and subsequent lamented death of Lieutenant-Governor Denham, then Acting Commissary Judge.

I have the honour to be, &c.

(Signed) JOHN WILLIAM BANNISTER.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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Enclosure in No. 52.

*Report of the Case of the Brazilian Schooner "Terceira Rosalia," Manoel Pereira Sarmento, Master.*

THIS Vessel, described in her Papers as of the burthen of 188½ tons, manned with 37 men, and owned by Manoel Francisco Moreira, of Bahia, left that Port on the 8th day of February 1828, furnished with an Imperial Passport, No. 1, authorizing her to go to the Port of Cabinda, and take on board 408 Slaves.

On the 20th of April following, then in or about Latitude 6. 17. North, Longitude 1. 46. East, she was seized, and sent for adjudication, by His Majesty's Ship "North Star," Septimius Arabin, Esquire, Commander, who declared in his Declaration, that he detained her for a breach of the existing Treaties between Great Britain and *Brazil*, she being at the time at anchor off Popoe, under Brazilian Colours.

The Vessel arrived in this Harbour on the 17th of May 1828, under the command of an Admiralty Mate of His Majesty's said Ship; and on the 19th of the same Month, her Papers were brought into Court, duly authenticated, when, on Petition of the Captor's Proctor, the usual Monition, citing all parties to appear, was issued, returnable on the 27th, on which date it was certified by the Marshal to have been duly executed.

On the 22d of May 1828, the Master put in a Claim for the Vessel and Cargo, on behalf of the aforesaid Owner, and his Proctor prayed to be allowed to proceed in defence of the Vessel. This was granted, but no Evidence was brought forward to support the Claim; while the Affidavit of the Master, to the truth of it, did not even offer a single exculpatory reason for the alleged violation of the Treaty and Convention.

The only material Evidence is referred to in the following Statement and Opinion of the Case:—

This is another instance of a *Brazilian* Vessel, furnished with an Imperial Passport to take Slaves from Cabinda, having been found at a Port to the Northward of the Equator, in direct violation of the provisions of that Passport, which strictly confined her "to enter solely such Ports on the Coast of Africa where the Slave-trade is permitted to the Subjects of the Empire of *Brazil*."

The Master and Claimant of this Vessel, although bound, from the circumstances under which she was seized, to furnish proof of the legality of the Voyage, has not attempted to account for this evident breach of the Treaty and Convention between Great Britain and *Portugal*, the provisions of which are rendered alike binding upon the Subjects of *Brazil*. The object of a Vessel, however, so circumstanced, in thus coming to the Northward of the Equator, could only be for the illicit traffick in Slaves; for, in this Case, there is such clear proof of the guilt of the parties concerned, that it is impossible to entertain a doubt thereon.

From the Log of the Vessel it appears, that, on the 5th day of the Voyage, then being in Latitude 19. South, her course was invariably to the Northward, until the 30th day, when, being in Latitude 4. 32. North, some deviation was made to the Southward, to enable her, as it would appear, and as is the custom with these illicit Traders, to clear Cape Palmas. This being effected, she again stands to the Northward, and then runs parallel with the Land, until the 42d day of the Voyage (the 24th of March 1828), when she anchors off Badagry, where there was then lying a Brig called the "Victoria." At this period of the Voyage the Log ends; and here it is necessary to remark, that the Master, in answering the 8th Standing Interrogatory, acknowledges that he did so anchor for the purpose of speaking to the Captain of the "Victoria," with whom the Witness was acquainted. Thus it is satisfactorily proved, that this Vessel, on the 24th of March, was at anchor off one of the most noted Slave-haunts on the Windward Coast, although she was not captured until the 20th of April following. There is nothing whatever in the course of the Evidence, to shew in what manner the Vessel was employed during the interval. The Master and

the other Witness (the Second Mate) both swear to the Vessel having been captured off Little Popoe on the 20th of April, while, at the same time, they contradict one another materially in other parts of their Evidence; for instance, the Master says, that the only Port the Vessel had anchored at on the Coast was Badagry, while the Second Mate, in answer to the same Interrogatory, says, that she only anchored at Little Popoe during the Voyage, at which Place she was seized about a quarter of an hour afterwards, by the Capturing Ship, and before any communication had taken place with the Shore; the Master, on the contrary, averring, that at the time of Capture, the Vessel was beating up for Little Popoe. They, however, both agree that the object for going there was to purchase provisions, and also that the Vessel had not broke bulk since leaving Bahia.

This discrepancy in the Evidence, therefore, renders it necessary to hesitate in believing either of these persons, who have so grossly perjured themselves in the latter part of their joint testimony relative to the Cargo, as to render it impossible to consider as truth any thing stated by them, having a tendency to mark the legal employment of the "*Terceira Rosalia*." They both positively swear, in answer to the 14th Standing Interrogatory, that the Cargo laden on board the Vessel this Voyage was only 60 rolls of tobacco, and 3 small casks of aquadente. On reference to the Vessel's Clearance, which is among the Papers brought in and filed, it appears, that, on the 7th of February 1828, she cleared from the Custom-House at Bahia for a Slave-trading Voyage to Cabinda, having on board 20 pipes of aquadente, 700 rolls of tobacco, and 32 cases of merchandize, as per Invoice then produced. This Document affords ample proof that the employment of this Vessel at Lagos, between the 24th of March and the 20th of April, was, landing the said Cargo, and that for a return one of Slaves. This being the opinion of the Court, which met for adjudication of this Case on the 17th of June 1828, the Vessel was accordingly declared to have violated the Passport, and to have been, at the time of her Seizure, illicitly employed in the Slave-trade to the Northward of the Equator, in violation of the Treaty and Convention between Great Britain and Portugal, as the same are adopted and renewed by the 2d Article of the Convention between Great Britain and Brazil; and that she was, therefore, justly seized and detained; and the Court accordingly condemned the "*Terceira Rosalia*," together with her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden on board her, as good and lawful Prize to the Crowns of Great Britain and Brazil, and as seized and prosecuted by Septimius Arabin, Esquire, Commander, and the Officers and Crew of His Majesty's Ship "North Star."

(Signed) JOHN WM. BANNISTER.

### No. 53.

*His Majesty's Commissioners to The Earl of Dudley.*—(Received Nov. 10.)

MY LORD,

Sierra Leone, August 9, 1828.

HEREWITH we have the honour to enclose the Report of the Case of the *Brazilian* Schooner "*Josephina*," captured by His Majesty's Ship "Sybille," Commodore Collier, C. B. Commander, on the 4th of July last, in or about Latitude 3. 34. North, Longitude 3. 50. East, with 79 Slaves on board.

She arrived here for adjudication on the 16th of July, and on her Papers being brought into Court, it appeared, from an indorsement on her Passport, that she had been boarded on the 24th of May, by Lieutenant Badgley, R.N., in a Boat of His Majesty's Ship "Eden," at anchor inside Bimbia Island, to the Northward of the Equator. We deem it proper to make known, also, to your Lordship, that two Logs were found on board, one the *bond fide* Log-book, commencing from the 23d of June, the day she took her Slaves on board, in the Cameroons. There was no outward-bound Log. The other was the Log-book of another Vessel, called the Schooner "*Voador*," Vicente Ferrara Ravallo, Master, commencing at Rio de Janeiro, on the 27th of April 1828.

The Master, Joaquim Ferreira, declared the Slaves to have been shipped at Cabinda, which was refuted by the Vessel's Log-book, and the Evidence of the Slaves, both clearly establishing the fact of their having been taken on board in the River Cameroons. The Court, therefore, at its meeting on the 8th of August, looking at the case of illegal traffick, as fully proved, and there being no Claim put in, unhesitatingly condemned the "*Josephina*" as lawful Prize, and emancipated the surviving Slaves, being 77 in number.

We beg to acquaint your Lordship, that the cause of the delay in the adjudication of this Vessel, was the illness and subsequent death of the late Lieutenant-Governor, His Majesty's Commissary Judge, *ad interim*.

We have the honour to be, &c.

(Signed)

S. SMART.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

JOHN WM. BANNISTER,

Enclosure in No. 53.

*Report of the Case of the Brazilian Schooner "Josephina," Joaquim Ferreira, Master.*

THIS Vessel, owned by Geraldo Joze de Canha, of Rio de Janeiro, and stated in her Papers to be of the burthen of  $63\frac{26}{100}$  tons, was navigated by 16 men, beside the Master, and armed with 3 guns. She cleared from Rio de Janeiro on the 16th of February 1828, furnished with an Imperial Passport, numbered 572, and dated the preceding day, shewing her to be bound for the Port of Cabinda, and authorising her to carry 158 Slaves.

On the 4th of July 1828, she being then in Latitude 3. 34. North, Longitude 3. 50. East, she was detained by His Majesty's Ship "Sybille," Commodore Collier, C.B. commander, with a Cargo of 79 Slaves, said to have been taken on board at Cabinda, on the 24th of June 1828, and arrived here for adjudication, in charge of an Admiralty Mate of His Majesty's said Ship, on the 16th of the same Month, having lost but 2 of the Slaves on the passage up.

On the 17th of July, the Papers of the Vessel were brought into the Registry, with the usual Affidavit, and a Monition prayed for and granted, returnable on the 24th of that Month, on which day it was certified by the Marshal to have been duly promulgated.

Owing to the illness and subsequent death of the Commissary Judge, the Adjudication of this Vessel did not come on until the 8th of August, when the Judgment of the Court, which embraced the whole of the Evidence material in the Case, was as follows:—

This is an instance of a Vessel seized to the Northward of the Equator, with a Cargo of Slaves on board, said to have been shipped at Cabinda, and therefore one in which the Master is bound, by the 5th Article of the Instructions to the British and Portuguese Ships of War, employed to prevent the illicit Traffick in Slaves, to furnish the proof of the legality of the Voyage; in the absence, however, of any attempt of this kind, or of any Claim on behalf of the Owners for the Vessel and Cargo, the Court is left to deal with the Case from the Evidence filed by the Captors.

From the Master's answers to the Standing Interrogatories, we learn that the Vessel sailed from Rio de Janeiro, about 5 Months ago, (which agrees with the date of her Clearance) for Cabinda, which was her last clearing Port before Capture, and at which Place he positively swears she took on board her Slaves. That during the Voyage, however, and before making Cabinda, she touched and anchored at an Island called Bimbia, for the purpose, it is stated, of endeavouring to purchase ivory, with some damaged goods of the Cargo, but did not succeed; and here it is necessary to observe, that it appears from an indorsement on her Passport, that while lying at anchor inside of that Island, on the 24th of May 1828, she was boarded by Lieutenant Badgley, R. N. in the Boat "Onyx," of His Majesty's Ship "Eden."

The Evidence of the Master, as to the taking on board the Slaves at Cabinda, is corroborated by the other Witness, (a Mariner on board the Vessel,) examined on the Standing Interrogatories.

In contradiction to the Testimony of these 2 Persons, we have that of 2 of the Slaves, both intelligent Natives, and one of them sufficiently acquainted with the English language to make himself understood in it. They swear, in answer to the Special Interrogatories, put to them by permission of the Court, that they were sold to the Master of this Vessel, and shipped, together with the other Slaves on board her, in the River Cameroons, one of them at a Town called Apollo, or King Bell's Place, and the other at a Town lower down, called Yengee, or King Bimbee's Place. The one who speaks English also swears, that he knew the Officer who brought the Vessel here, having seen him about 3 Years ago at King Bell's Place; and this latter circumstance is corroborated by Admiralty Mate Pettet, (the Officer alluded to) in an Affidavit, in which he swears, that some time ago, he was at the Town of King Bell, in the River Cameroons, on this Coast, and that he verily believes that this Witness, the Slave, was one of the people whom he, Mr. Pettet, saw there.

The suspicion therefore which must attach to a Vessel so navigated as this has been, having violated her Passport, by purposely coming to the Northward of the Equator, combined with the clear Testimony of the Slaves examined, would have left the Court in little doubt as to where these unfortunate people were taken on board; satisfactorily, however, for the more clearly exposing the unblushing perjury of such parties as these, engaged in the illicit Slave-traffick, the Court has before it the Log of the Vessel, which commences on the 23d of June, on which date an entry is made, that, at 4 P.M. they took on board 76 Slaves, and sailed at 5 the same Afternoon; and on the following day, at 2 P.M. another entry is made, of their cutting their anchors, the Vessel being then in sight of Land. Now, although it does not state where this point of departure is, still there can be no doubt of its being the River Cameroons, for, on the following day, the 25th, at 2 P.M. another entry is made, that the Southern point of the Cameroons is in sight, distance 12 miles; and on the 27th, the entries of the Latitude and Longitude being torn out of the Log for the 2 preceding days, we find the Vessel in Latitude 3. 16. North, she having been from the 24th pursuing a course South East, and South by East; and on the day before Capture, she is shown to be in 3. 8. North, and 5. 13. East, when her course was altered, as sworn to by the Master, in answer to the 9th Standing Interrogatory, to avoid the Capturing Ship. The Court is therefore of opinion, that no doubt can exist of this Vessel having shipped her Slaves in the River Cameroons, and it therefore pronounced her to have been justly seized and detained; and the Court accordingly condemned the said Vessel, "Josephina," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden on board, as good and lawful Prize to the Crowns of Great Britain and Brazil, and further decreed the emancipation of the surviving Slaves, 77 in number, and that there were on board, at the time of Capture, 79 Slaves; and also that this Vessel was seized and prosecuted by Commodore Collier, and the Officers and Crew of His Majesty's Ship "Sybille."

(Signed) S. SMART.

JOHN WM. BANNISTER.

## No. 54.

*His Majesty's Commissioners to The Earl of Aberdeen.—(Received Nov. 18.)*

MY LORD,

*Sierra Leone, August 26, 1828.*

WE have the honour to acknowledge the receipt of the Earl of Dudley's Despatch of the 27th of February 1828, transmitting to us, for our information and guidance, 6 Copies of the Convention, which was concluded at Rio de Janeiro on the 23d of November 1826, between His Majesty and The Emperor of *Brazil*, for the regulation and final abolition of the African Slave-trade; with 6 Copies of the Act, passed in the 8th Year of the Reign of His present Majesty, for carrying the said Convention into effect; and also 6 Copies of the Act of the 58th Year of His late Majesty's Reign, having the like reference to a Convention between His Majesty and The King of *Portugal*.

We have the honour to be, &amp;c.

(Signed)

S. SMART.

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

## No. 55.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Nov. 18.)*

(Extract.)

*Sierra Leone, September 19, 1828.*

ON my arrival here I found 1 *Brazilian* Vessel, the "*Nova Virgem*," in course of adjudication in the *Portuguese* Court, but as no considerable progress had been made in the Case, I deemed it advisable to cause such Papers as had been filed in it to be withdrawn, and the proceedings to be begun afresh in the *Brazilian* Court, which the receipt of the new Commission under the Convention with that Empire, of which I was the Bearer, enabled me to open.

This was accordingly done, and I have now the honour to enclose to your Lordship, the Report of her Condemnation, together with that of a *Brazilian* Brig, the "*Clementina*," which was brought in here since my arrival.

Both these are Cases of the most notorious and palpable violation of the Convention, but I am not aware that they possess any feature to which it is requisite for me to draw your Lordship's more particular attention, except it be in the one Case (that of the "*Nova Virgem*,") to the continued practice of including in the Imperial Passport, permission to touch at Points prohibited by the spirit of the Engagements existing between Great Britain, *Portugal*, and the *Brazils*; and in the other, (that of the "*Clementina*,") to the very great mortality, which, to the number even of 107, occurred on board that Vessel, on her passage to this Place. For the one, it is to be hoped that the pending Negotiations between His Majesty's Government and those of *Portugal* and *Brazil*, will afford an adequate remedy, and that it will shortly no longer be possible for them to avail themselves of the miserable subterfuge, by which the practice alluded to is attempted to be justified; namely, that the 2 Islands of Princes and St. Thomas, the 1 distant 90 Miles from the main Land, the other upwards of 120, cannot be said to be on the "Coast of Africa."

With regard to the loss of life which has occurred on board the "*Clementina*," I ought not to omit to state to your Lordship, that there exists among the Papers on file in this Case a very strong Affidavit, on the part of the Prize Master, to the effect "that every means in the power of himself and Crew were afforded to the Slaves," and that the deaths which occurred did not ensue through his neglect.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

## First Enclosure in No. 55.

*Case of the Brazilian Schooner "Nova Virgem."*

THIS is the Case of the *Brazilian Schooner "Nova Virgem,"* captured by His Majesty's Ship "*Primrose*," Thomas Saville Griffinhoofe, Esquire, Commander, for a breach of the Treaty, concluded on the 23d day of November 1826, between His Majesty and The Emperor of Brazil, for the regulation and final abolition of the African Slave-trade.

The Capture was made on the 28th day of July last, in about Latitude 5. 50. North, Longitude 4. 5. East, with 354 Slaves on board.

The Master, Cosmé Jozé Rodriguez swears, as does the Cook on board his Vessel, Antonio Jozé Gonsalvez, "that these Slaves were embarked at Molembo;" but in this he is contradicted by the Evidence of the Slaves "Ojoe" and "Laroquey," who swear, "that they were embarked only 3 days previous to their being captured by the "*Primrose*." The embarkation cannot possibly, therefore, have taken place at Molembo, and must have been effected in a Latitude prohibited by the Treaty; a fact, which is strongly corroborated by that sworn to by Antonio Jozé Gonsalvez, "that no Slave had died on board previous to Capture," as well as by the circumstance deposed to by the Captor, "of there being only 3 empty water casks found on board at the time of Capture," the 3 largest of which, as appears by a survey, which has been directed by the Court, are capable of containing only 494 gallons, a reasonable supply for 3 days (the number on board, including the Crew, being altogether 377); but quite inadequate for a Voyage of 12, even supposing the 3 casks, spoken of by the Captor, to have been of the largest dimensions, instead of being, as was most probably the case, of the smallest.

No Claimant appears in this Case, nor is any attempt made to account for the "*Nova Virgem*" being found with Slaves on board to the North of the Line; and the Evidence of the Master, and of the Cook, is, in some instances, so improbable, and in others, so positively contradicted by other testimony, as to make it impossible to place any reliance on it. Of the first description is their swearing, that between the 16th day of June and the 28th day of July, they had made the Voyage from Bahia to Molembo; had there broken bulk, and, having taken in this Cargo of Slaves, reached the Latitude where they were found on the last-mentioned day by the "*Primrose*." Of the latter description, is their statement that, at the time of their first seeing the Capturing Ship, no additional sail was made; whereas the Captor swears, that "they made all sail away," in which he is corroborated by the boy Jozé. The fact sworn to by all three (Master, Cook, and Boy), that they were plundered by a Piratical Vessel, 2 days after the Slaves were shipped, partakes of both characters: it is improbable, because these very Slaves would have constituted the best Prize the Pirate could have made: it is contradicted by the testimony of the 2 Slaves above referred to.

There is also much conflicting Evidence, with regard to the Log-book, which is not forthcoming (a circumstance, of itself, of the greatest suspicion); the Cook swearing, he *knows* it was in the writing-desk, said to have been plundered by the Piratical Vessel; the Master swearing, that "he left it in his Vessel when he went on board the Capturing Ship." So, also, with regard to the Passengers, who, the Master and Cook, swear, were sent on board the "*Nova Virgem*" by the Pirate, but of whom no mention whatever is made in the Declaration of the Captor. The Boy swears, "they came on board where the Slaves were shipped." The 2 Slaves, "Ojoe" and "Laroquey," swear, that the "*Nova Virgem*" did not fall in with, nor was she spoken by, any Vessel, from the time they were embarked to the period of her Capture.

Putting all these circumstances together, the Court can have no hesitation in pronouncing the said Vessel "*Nova Virgem*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden therein, to have been at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and, as such, subject and liable to confiscation; and condemn the said Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize, laden therein, as taken in such illicit traffick by His Majesty's Ship of War "*Primrose*," Thomas Saville Griffinhoofe, Esquire, Commander; and, moreover, pronounce the said Slaves, Natives of Africa, to be emancipated from slavery, and to be employed as servants or free labourers; and also, that it has been proved, that, at the time of passing the said Sentence, 149 Men, 75 Women, and 96 Children, compose the whole of the Slaves so decreed to be emancipated, 34 having died since Capture.

But the Court cannot finally dispose of this Case, more especially as it is the first which has been brought before the joint British and *Brazilian* Commission, established by the before-mentioned Convention, without adverting, in the most pointed manner, to the lamentable facilities afforded to this abominable traffick by the practice of the *Brazilian* Government, of inserting in the Passports granted to Vessels legally engaged therein, a further license to touch at the Islands of St. Thomas and Princes (in this instance the permission extends even to Elmina); a practice so avowedly in violation of the spirit which dictated the Engagements between the two Crowns, that it is to be hoped that it will, at once, be discontinued; and which, as has already been the case, can hardly fail to cause the condemnation of any Vessel, on board of which such a Passport may be found, independently, even, of any other consideration.

(Signed)

GEO. JACKSON.  
S. SMART.

## Second Enclosure in No. 55.

*Case of the Brazilian Brig, "Clementina."*

THIS is the Case of the Brazilian Brig, "*Clementina*," which was furnished with an Imperial Passport, authorizing her to take Slaves from Cabinda and Molembo, and captured on the 5th of August last, in the River Cameroons, with 271 Slaves on board, by His Majesty's Brig of War, "*Clinker*," George William Matson, Esquire, Commander.

The Master, Antonio da Silva Guimarens, and Manoel Joze, a Seaman on board, the only 2 Witnesses in this Case, admit, on their examination on the Standing Interrogatories, that the Slaves were taken on board, from the Shore, in the Cameroon River, and do not attempt to account for her breach of Passport.

The case of illicit traffick being thus clearly established, and no Claimant appearing, the Court pronounce the said Brig "*Clementina*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and, as such, subject and liable to confiscation; and condemn the said Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as taken in such illicit traffick, by His Majesty's Brig of War "*Clinker*," George William Matson, Esquire, Commander; and moreover pronounce the said Slaves, Natives of Africa, to be emancipated from slavery, and to be employed as servants or free labourers, and also, that it has been proved, that at the time of passing the said Sentence, 44 Men, 44 Women, and 68 Children, compose the whole of the Slaves so decreed to be emancipated; 115 having died since Capture.

(Signed) GEO. JACKSON,  
S. SMART.

## No. 56.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, December 11, 1828.

I HEREWITH transmit to you, for your information and guidance, the Copies of a Correspondence which has passed between the Vicomte d'Itabayana and myself, and likewise the Copy of a Despatch, which I addressed, on the 6th Instant, to His Majesty's Envoy at Rio de Janeiro,\* upon the subject of propositions brought forward by the Brazilian Government, to postpone the period at present fixed for the abolition of *Brazilian Slave-trade*; and to revise Sentences passed by the Court of Mixed Commission at Sierra Leone.

I send, at the same time, Copies of the Correspondence on the particular Cases of the "*Activo*," "*Perpetuo Defensor*," and "*Heroína*."\*

I am, &amp;c.

His Majesty's Commissioners.

(Signed) ABERDEEN.

\* See Class B.

## No. 57.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Dec. 12.)*

(Extract.)

Sierra Leone, October 4, 1828.

IN forwarding to your Lordship the Report of the *Brazilian Schooner "Sociedade,"* I have again to notice the permission given in her Passport to touch at the Islands of Princes and St. Thomas; she was captured on the 8th of August last, by His Majesty's Ship "*North Star*," in about Latitude 2. 50. North, Longitude 5. 48. East. She had no Slaves on board, but all her Cargo, which her Papers proved to have been very considerable on leaving Bahia, (from whence she sailed direct to this Coast without breaking bulk) had been landed.

On both these grounds she was condemned on the 3d Instant, by Mr. Smart, and myself.

(Signed) GEORGE JACKSON.

The Right Hon. The Earl of Aberdeen,  
&c. &c. &c.

Enclosure in No. 57.

*Case of the Brazilian Schooner "Sociedade."*

THE Schooner "*Sociedade*," sailing under *Brazilian* Colours, and furnished with an Imperial Passport, authorizing her to take Slaves from Molembo, and irregularly allowing her to touch at the Islands of St. Thomas and Princes, was captured by His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander, on the 8th of August 1828, being in or about Latitude 2.50. North, Longitude 5. 42. East, not having any Slaves on board, but all her Cargo landed.

José Martinez, First Pilot on board the Vessel, in answer to the Standing Interrogatories, deposes "that the Vessel only anchored and touched at Accra during the present Voyage, that she did so with the intention of repairing the fore-mast, but did not find Carpenters to do it, and to obtain provisions and water, for which purpose 100 rolls of tobacco, and 2 pipes of aquadente were landed; that the Vessel remained there more than 20 days, having lost her Boat and broken 3 cables; and that the Master was left there sick.

Anastacio Ribeiro, a Boy on board the Vessel, on being examined on the same Interrogatories, corroborates the Evidence of the Pilot, and adds further, that the Capture took place 2 days after leaving Accra.

Special Interrogatories being put to the First Pilot, on behalf of the Captors, he swears, in answer thereto, "that the first Land made on this Coast was a Place, called, in the Portuguese Charts, Ubapo, about 31 leagues N. N. W. of Cape Palmas, and near Settra Kroo;" and, "that no mention is made in the Log-book, either of the breaking of the fore-mast-head, which happened on the 3<sup>rd</sup> day of the Voyage, in about 5. North Latitude, and 8. West Longitude, or of the landing of the tobacco and aquadente, at Accra."

On reference to the Chart, the spot he specifies as that where he broke his fore-mast, will be found to coincide pretty nearly with the Latitude and Longitude of Ubapo, so that, according to his own shewing, and reckoning from the date of his Passport, he was on the Coast about the latter end of June; and it is not to be supposed that he would remain upwards of 40 days there, for no other reason than that which he assigns in his answer to the Standing Interrogatories, viz. on account of the loss of his Boat and 3 Cables, and for the purpose of procuring water and provisions; nor is the supposition less incredible, that he landed and bartered 100 rolls of tobacco and 2 pipes of aquadente, for such provisions and water only as was requisite for the Crew of so small a Vessel as the "*Sociedade*;" the former article, it is well known, yielding of itself between 3 and 4 pounds per roll on the Leeward Coast.

Had the Case rested here, little doubt would have remained on the mind of the Court as to the Judgment to be pronounced respecting it, but the gross deception attempted to be practised in this instance is still further manifest by a specification, which is found among this Ship's Papers, by which it appears, that so far from the 100 rolls of tobacco and 2 pipes of aquadente being the whole of the Cargo, as sworn to by the Pilot, no less than 1,200 rolls of tobacco, 1,500 pounds weight of gunpowder, 8 cases of muskets, and various other merchandize, were shipped on board the "*Sociedade*," at Bahia, previous to her sailing from that Port.

The intention, if not the completion, therefore, of illicit traffick, appears thus to be clearly established, and no Claimant appearing, the Court pronounce the said Schooner "*Sociedade*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and seizure thereof, engaged in the illicit traffick in Slaves, and, as such, subject and liable to confiscation; and condemn the said Schooner, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as taken in such illicit traffick, by His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander.

(Signed) GEORGE JACKSON.  
S. SMART.

No. 58.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, December 31, 1828.

WITH reference to the Despatch of His Majesty's Commissioner of the 8th of August 1828, transmitting the Case of the *Brazilian* Schooner, the "*Tercira Rosalia*," I have to observe to you, that as, upon the facts which appeared before you in Evidence in this Case, it was to be presumed that this Vessel had been bartering her outward Cargo for Slaves, the admitted object of her Voyage, in Ports to the Northward of the Line, in violation of the Treaty between this Country and *Brazil*, and in contravention of the terms of her Passport; and as no credible Evidence was produced to repel this presumption, the Sentence which His Majesty's Commissioners pronounced in this Case, condemning the Ship and Cargo, although she had not any Slaves actually on board, is in conformity with the principle acted upon in the Case of the "*Heroína*," and approved of in that Case by His Majesty's Government.

I am, &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

## SIERRA LEONE. (Netherlands.)

No. 59.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, June 17, 1828.*

I HAVE to acquaint you, that a Communication has been received at this Office from the Admiralty, under date of the 19th of May, stating that the Instructions referred to in the Treaty between Great Britain and the *Netherlands*, for the suppression of illegal Slave-trade, have been issued to the following Ships and Vessels of His Majesty's Navy:—

Guns.	Ships.	Commanders.
48 .....	<i>Sybille</i> .....	F. A. Collier.
46 .....	<i>Aurora</i> .....	C. J. Austen.
" .....	<i>Briton</i> .....	Hon W. Gordon.
26 .....	<i>Eden</i> .....	W. F. W. Owen.
18 .....	<i>Espiegle</i> .....	W. Sandom.
10 .....	<i>Bustard</i> .....	G. S. Smith.
12 .....	<i>Clinker, G. B.</i> ....	Lt. W. G. W. Matson.
" .....	<i>Fairy</i> .....	J. O'Brien.
" .....	<i>Plumper</i> ...	E. Medley.
3 .....	<i>BlackJoke, Tender,</i>	H. Downes.

and that the Instructions which had been issued to His Majesty's Ships "Druid," "Maidstone," "Atholl," "Brazen," "Esk," "Pylades," "Redwing," "Scylla," and "Conflict," have been recalled and cancelled.

I have accordingly to desire, that you will communicate this information to the Court of Mixed Commission of which you are Members.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

No. 60.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 29.)*

(Extract.)

*Sierra Leone, April 25, 1828.*

HIS Netherland Majesty having been pleased to permit M. *Bonnouvié*, His Judge in the British and *Netherland* Mixed Court of Justice in this Colony, to return to Europe for the benefit of his health, that Gentleman has communicated the same, officially, to us, with his intention to depart from this on the 26th Instant, by a Vessel now lying in the Harbour bound for England.

(Signed)

H. LUMLEY.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
    &c.           &c.           &c.



## No. 61.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 19.)*

MY LORD,

Sierra Leone, May 24, 1828.

WITH reference to our Despatch of the 7th Instant,\* communicating to your Lordship the arrival here of a Vessel named "*La Fanny*," under *French* Colours, detained by His Majesty's Ship "*Sybille*," Commodore Collier, upon suspicion of having both *Dutch* and *French* characters, and other particulars concerning her; we have now the honour to inform your Lordship, that on the Evening of the previous day (9th Instant), on which she was to have been sent to Senegal, Mr. Macaulay (the Agent of Commodore Collier), received a message from some of the parties on board of her, requesting to see him, as they had something particular to communicate personally to him, relative to her, but which they would not communicate in a message; Mr. Macaulay accordingly proceeded on board, when he was informed by a person of the name of Achille le Deuc (late the Master of a *French* Brig, captured in the Bonny by a *French* Vessel of War for trading in Slaves), and several others, that they never had entertained the slightest idea that they would actually be sent to Senegal, but as the preparations of provisioning and watering "*La Fanny*" for sea, had convinced them such was the determination, they had better acknowledge the truth;—that she had been furnished with *Dutch* Papers, which were destroyed during the chase of the Schooner by the "*Sybille*."

Achille le Deuc further said, that 56 of the Slaves on board were his own property, which he had shipped on freight after the Capture of his own Vessel; and that he had rather lose those Slaves here than be sent to Senegal, as he feared in that case, beside the confiscation of his property, he would be subject to imprisonment.

The same parties who gave Mr. Macaulay this information volunteered to give Evidence before the Court.

She was therefore proceeded against in the British and *Netherland* Mixed Court of Justice, and, after a strict investigation, Sentence of Condemnation was passed upon her on the 22d Instant, and the surviving Slaves, to the number of 252, were emancipated, 28 having died subsequent to Capture.

From the facts disclosed in this Case, it appears that Vessels are yet furnished with *Netherland* Papers from the Authorities of that Power in the West Indies, although we trust, from the limited number of Vessels captured under that Flag, engaged in the illicit Traffick in Slaves, within the last 18 Months, that the facility of obtaining them is greatly diminished.

We cannot help remarking to your Lordship how easy it is for the Vessels engaged in the Slave-trade to avoid detection, while they continue to assume *Dutch* and *French* characters, which renders the duty of His Majesty's Naval Officers particularly embarrassing, on meeting with suspicious Vessels, apparently sailing under the White Flag.

The fraudulent character of "*La Fanny*" would probably never have been elicited, but for the determination of the Captors to deliver her up to the *French* Government, which forced the Parties to confess the truth.

There is a fact connected with this Vessel, which, differing from the testimony of all the other Witnesses, appears most suspicious. Eugene Honora, a boy belonging to "*La Fanny*" swore, "that a Mr. Wright appointed the Master to the command of "*La Fanny*" at St. Jago de Cuba; that he is the Owner of that Vessel; knows him to be the Owner because he put the Captain on board, and furnished the Crew with provisions and money; that Mr. Wright was either an Englishman or an American, and resides opposite the Wharf at St. Jago de Cuba; that he is the Owner and Consignee of the Slaves on board, who were to be delivered on the Coast of Cuba; for his real account, risk, and benefit; his ground for this belief is, that the Vessel and outward bound Cargo belonged to him, the latter having been put on board from his Stores."

\* See No. 10.

We have been informed that the names of the Firm of Joli and Company, who appear as the Agents of Messrs Bonnaffe and Lariviere of Guadaloupe, are Joli and Wright.

It is probable from this circumstance, that, as Joli and Company shipped the Cargo, as is fully shewn they did in the *French* Papers, that the Witness may have thus supposed Mr. Wright was the real Owner; if otherwise, it must shew the gross subterfuges of the Parties concerned in these nefarious transactions.

Begging your Lordship's reference to the Report which we enclose,

We have the honour to be, &c.

(Signed)

D. DENHAM.  
WM. SMITH.

*The Right Hon. The Earl of Dudley,*  
    &c.           &c.           &c.

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Enclosure in No. 61.

*Report of the Case of the Netherland Schooner "La Fanny," Jean Constantin, Master.*

ON the 12th day of April "*La Fanny*," arrived in the Harbour of Sierra Leone with 266 Slaves on board.

Owing to the difficulty experienced by the Captors in determining her real character, she remained without being brought into Court until the 10th day of May, when having elicited sufficient information from her Crew to affix a *Netherland* character upon her, the Ship's Papers, found on board of her, and the Captor's Declaration, were duly filed, duly authenticated by the Affidavit of Mr. John Pettet, Admiralty Mate of His Majesty's Ship "*Sybilie*."

A Monition, citing all Parties interested before the Court, was prayed for and granted on the same day, which went forth and was returned, certified to have been duly served, on the 19th of May following.

The Ship's Papers of "*La Fanny*" were all *French*, and dated at Pointe-à-Pitre, Guadaloupe, in March 1827.

Commodore Collier's Declaration sets forth, that "on the 19th day of March 1828, being in Latitude 2. 58. North, Longitude 5. 57. East, he detained the Schooner, named "*La Fanny*," sailing under *French* Colours, but supposed to be a *Netherland* Vessel, having on board 282 Slaves. He further declared, that he sent her to Sierra Leone for adjudication, from the following suspicious circumstances;—1st, her not having hoisted any Colours until the Boats of the "*Sybilie*" were nearly alongside, and that their Nation could be clearly distinguished, and after a chase of 6 hours. 2dly, a *Dutch* Pendant and Ensign were concealed in the Master's Cabin. 3dly, very few of her Crew are *French*, and her real Master and Mate are *Danes*; 4thly, her escaping in safety while lying in the Calabar, although a *French* Brig-of-War visited that River, and captured a Slave-brig of that Nation, within a short distance of where this Vessel lay at anchor; lastly, she cleared out from a *Spanish* Port, St. Jago de Cuba."

The Master under the *French* Papers, Jean Constantin, deposed on the Standing Interrogatories, "that he took possession of the Vessel at Cuba in October last; one Joli appointed him to the command, and gave him possession of her; he first knew her at Guadaloupe in March 1827; that she was seized for having Slaves on board; she sailed under the *French* Flag, but had a *Dutch* Flag on board for a Signal Colour; that there were 7 Passengers on board, being the Master and part of the Crew of a *French* Brig, which had been captured for trading in Slaves by a *French* Brig-of-War. That Achille le Deuc, a Passenger, (the aforesaid Master) was the Owner and Lader of 56 of the Slaves on board; the Lader of the remaining number was Hingelberg, the Supercargo of the Schooner; the Owners and Consignees were Messrs. Bonnaffe and Lariviere, of Guadaloupe, the Owners of the Schooner; and the Slaves were to have been delivered at Guadaloupe, or any other Place where they got a chance. That the Slaves were shipped in the River Calabar, 283 in number, 4 of whom died previous to Capture; that the Papers, which were found on board the Schooner, were entirely true and fair, none false or colourable. And that to his knowledge no Papers or Writings of any kind were either torn, burnt, thrown overboard or destroyed."

Hans Peter Hingelberg, the Mate and Supercargo, corroborated the Master's Evidence, on oath, in every particular.

Achille le Deuc, a Passenger, shipped in the River Calabar, and Owner of 56 Slaves on board, on his examination swore most positively, "that the *Dutch* Papers belonging to the Schooner were thrown overboard, as soon as they knew the Boats of the Capturing Ships, then about to board the Schooner, were English."

In confirmation of his Evidence, Pierre Guillardon, also a Passenger, swore "that he himself had instructions from the Master, Constantin, if it was a *French* Man-of-War they then saw, he, the Witness, was to hide the *French* Papers, which the Captain then gave him to hold in his hands." And he further swore, "that he heard the Sailors of the Schooner, after her Capture, and when they were on board the "*Plumper*," Gun-Brig, talk amongst themselves, that *Dutch* Papers had been thrown overboard from the Schooner."

Rodolph Estrades, although he did not, of his own knowledge, know that any Papers were thrown overboard or destroyed, yet, he was told such was the case: and he further swore, "that although she sailed under the *French* Flag, she had a *Dutch* Flag also on board, the latter of which would have been hoisted, had the English Frigate and Brig proved to be *French*."

The Evidence of Achille le Deuc, as a Passenger, was less subject to doubt and suspicion than any other person on board, in every point of view,—and if taken as being much interested in the Cargo of the Vessel, which he swears he was, it is to be presumed he would not have sworn to what puts his property in the utmost danger of confiscation, if it had not been true; and both Pierre Gouillardon and Rudolph Estrades' Evidence is strongly illustrative of the fraudulent character of this Vessel; for if the *French* Papers were to be concealed, the presumption follows, that she had other Papers on board to produce to the chasing Ships, had they actually proved *French*; and the circumstance of a *Dutch* Flag being also ordered to be hoisted, confirms the presumption. If, therefore, fraud was not contemplated, and evasion not to be practised, such manœuvring could not be accounted for; these 3 Witnesses knew nothing of the proceedings previous to their shipping on board "*La Fanny*" in the River Calabar, and their Evidence alone was sufficient to excite the strongest suspicion of the illegal and fraudulent conduct of the Parties concerned in this Vessel, after they had left that River; but had the Court been in doubt upon the character of "*La Fanny*," the Evidence of Knud Wilhelm Harderup put it beyond all doubt.

He swore "that the Vessel was cleared out by himself (who was the *Dutch* Master) as a *Dutch* Vessel, and that she left Cuba under *Dutch* Colours. On her arrival at Calabar she hoisted *French* Colours; *French* and *Dutch* were the only Colours on board; that the *French* name of the Vessel taken is "*La Fanny*;" she has been called so since leaving Guadaloupe in March 1827; her *Dutch* name is the "*Zeebloem*;" he knows of no other names by which she has been called; that he was the Second Mate under the *French* Colours, but, under the *Dutch*, the Master; that the *Dutch* Papers that were on board, were all true and fair, but he knows nothing relative to the *French* papers." Although this Witness could not depose to what became of the *Dutch* Papers, his Evidence is sufficiently conclusive that they were on board; they are not produced, and therefore the assumption can only be that they were thrown overboard, as the preceding Witnesses have sworn to.

This man's Evidence of the Vessel having left Cuba under *Dutch* Colours, was confirmed by a Boy named Eugene Honora, who also swore that "*La Fanny* left Cuba under *Dutch* Colours, and when they arrived at Calabar they hoisted *French*;" he further swore to Papers having been thrown overboard by Constantin after Capture, and while on the way up here; and this was the only part that did not corroborate the other Witnesses as to the time it took place; but placing aside the discrepancy on this exact point, the Master's remark to him, when the *Dutch* Colours were hoisted, "that the *Dutch* Papers would not be found, as they were hove overboard long ago;" together with her leaving Cuba under the *Dutch* Flag, corroborative of the *Dutch* Master's testimony, is, all viewed together, so strong, as not to admit of the slightest doubt, that she had two characters,—*Dutch* and *French*; in either of which, if captured by the English or *French*, she must abide the penalties denounced by the Treaty between Great Britain and the Netherlands on the one hand, and the *French* Laws on the other.

After the foregoing Evidence had been taken, the Captors petitioned the Court to allow Special Interrogatories to be put to Jean Constantin, which was granted. At that examination his conscience appears to have dictated him to swear the truth, seeing, probably, that he could not impugn the testimony of the Witnesses. He accordingly swore "that there were *Dutch* Papers on board; that "the *Dutch* Master's name was William Harderup; that she was called the "*Fanny*," and the "*Zeebloem*;" but that he did not know what became of the *Dutch* Papers; he heard the Sailors say they were thrown overboard."

The examination of the last Witness closed the Case. No Claim was preferred to the Court on behalf of any Party interested in the "*Fanny*."

The mass of Evidence presented to the Court was strongly conclusive of the fraudulent character of this Vessel, and at a Sitting of the British and Netherland Mixed Court of Justice, held on the 22d Instant, Sentence of Condemnation was pronounced upon "*La Fanny*," and the surviving Slaves, to the number of 252, were emancipated, 28 having died subsequent to Capture, (27 on board, as appeared by the Affidavit of the 2 Officers in charge of her, and 1 on Shore, previous to adjudication,) and declared 280 to have been on board at the period of her detention. The discrepancy in the number of Slaves in several places in this Report, having arisen from the almost impossibility of counting them correctly, when crowded together in so small a Vessel.

(Signed) D. DENHAM.  
WM. SMITH.

## No. 62.

*His Majesty's Commissioners to John Backhouse, Esq.—(Received Nov. 10.)*

SIR,

*Sierra Leone, July 5, 1828.*

IN pursuance of the 75th Clause of the Act, passed in the 5th Year of the Reign of His present Majesty, entitled, "An Act to amend and consolidate the Laws relating to the Abolition of the Slave-trade," we beg to enclose a Return of all the Cases of *Netherland* Vessels adjudicated in the British and *Netherland* Mixed Court of Justice established here, from the 1st of January 1828, to the 1st of July 1828.

We have the honour to be, &c.

John Backhouse, Esq.  
&c. &c. &c.

(Signed)

H. LUMLEY.  
JOHN WM. BANNISTER.

Enclosure in No. 62.

*Return of Netherland Vessels adjudicated by the British and Netherland Mixed Court of Justice established at Sierra Leone, from the 1st day of January 1828 to the 1st day of July 1828.*

Name of Vessels.	Date of Seizure.	Property Seized.	SEIZOR.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the Proceeds remain.
La Fanny...	Mar. 19, 1828.	{ Schooner and 280 Slaves }	{ F. A. Collier, H.M.S. Sybille. }	May 22, 1828.	{ Condemned for illicitly trading in Slaves }	{ The Schooner sold by publick auction, but the Proceeds remain in the hands of the Commissioners of Appraisement and Sale, — the Accounts not having yet been returned into the Registry. }

(Signed)

H. LUMLEY.  
JOHN WM. BANNISTER.

Sierra Leone, July 1st, 1828.

JOSH. REFFELL, Registrar.

## No. 63.

*His Majesty's Commissioners to The Earl of Aberdeen.—(Received Nov. 18.)*

MY LORD,

Sierra Leone, August 26, 1828.

WE have the honour to acknowledge the receipt of your Lordships's Despatch of the 17th of June 1828, communicating to us the names of several Ships and Vessels of His Majesty's Navy, to which the Instructions referred to in the Treaty between Great Britain and the *Netherlands* for the suppression of illegal Slave-trade, have been issued, and the names of others of His Majesty's Ships which have been recalled, and their Instructions, under the same Treaty, cancelled.

We have the honour to be, &amp;c.

(Signed)

S. SMART.

JOHN WM. BANNISTER.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

## No. 64.

*George Jackson, Esq. to The Earl of Aberdeen.—(Received Dec. 12.)*

MY LORD,

Sierra Leone, October 4, 1828.

I HAVE the honour to transmit in this Despatch the Report of the *Netherland* Brig "*Henriette*," alias "*Confiance*" condemned on the 3d Instant by Mr. Smart and myself. She was captured on the 11th of August last, by His Majesty's Ship "*Eden*," in or about Latitude 3. 50. North, Longitude 9. 5. East; with a Cargo of 426 Slaves, which had been embarked the day before in the Calabar River. When captured she was sailing under *French* Colours, but

the Master's Evidence, corroborated by that of one of his Crew, proved that these were fictitious, that her real Papers were *Dutch*, and that they were thrown overboard by his own orders, on the approach of the Boat of the Capturing Vessel.

Of the 426 Negroes found on board at the time of Capture, 60 died on their passage to this Port, and 15 between the period of the arrival of the Vessel and its adjudication; the remaining 350, including 59 landed at Fernando Po, by order of Captain Owen, were emancipated by the Decree of the Court.

I have, &c.

(Signed)

GEORGE JACKSON.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

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Enclosure in No. 64.

*Case of the Netherland Brig "Henriette," alias "Confiance."*

THIS is the Case of the Netherland Brig "*Henriette*," alias "*Confiance*," captured on the 11th of August 1828, under French Colours, by His Majesty's Ship "*Eden*," W. F. W. Owen, Esq., Commander, being in or about Latitude 3. 50. North, Longitude 9. 5. East, and having on board a Cargo of 426 Slaves, said to have been embarked the day previous to Capture in the Calabar River.

The Master, L'Espoire Raoulant, on his Examination on the Standing Interrogatories, swears "that he himself is the Owner of the Vessel taken, and of the Slaves found on board her, which were embarked in the Old Calabar; that the Papers found on board the Vessel, (*French* and *Spanish*) are false and colourable, and were merely on board to be made use of, if circumstances required it; the *Dutch*, the detained Vessel's real Papers, having been secretly thrown overboard, by his own orders, a short time before the Boat of the Capturing Ship boarded."

John Muller, a Seaman on board the Vessel, on his Examination on the same Interrogatories, corroborates the foregoing Evidence; and although a discrepancy exists between the Master and himself respecting the Ownership, yet their statements, as to the place of embarkation of the Slaves, and as to the fact of certain Papers having been thrown overboard, on the approach of the Boat of the Capturing Ship, fully coincide.

The illicit traffick being thus clearly proved, and no Claimant appearing, the Court pronounce the said Brig, "*Henriette*," alias "*Confiance*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit traffick in Slaves, and as such subject and liable to confiscation; and condemn the said Vessel, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as taken in such illicit Traffick by His Majesty's Ship "*Eden*," W. F. W. Owen, Esq., Commander; and moreover pronounce the said Slaves, Natives of Africa, brought to Sierra Leone, to be emancipated from slavery, and to be employed as servants or free labourers; and also that it has been proved, that, at the time of passing the said Sentence, 128 Men, 87 Women, and 75 Children, composed the whole of the Slaves so decreed to be emancipated; and the Court further decree, that the 59 landed at Fernando Po, or the survivors of them, be likewise emancipated.

(Signed)

GEO. JACKSON.  
S. SMART.

## HAVANA.

No. 65.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 1, 1828.)*

MY LORD,

Havana, December 4, 1827.

SINCE the date of our Despatch of the 2d Ult., the *Spanish* Schooner, "*Maria*," Don Salvador Pozo, Master, has sailed for St. Thomas, on the Coast of Africa.

We have heard a report that a *Spanish* Vessel has lately landed a large Cargo of Slaves a little to the Westward of Matanzas; but she has not yet entered this Port.

We have the honour to be, &c.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
                  &c.                   &c.                   &c.

No. 66.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 1, 1828.)*

MY LORD,

Havana, December 12, 1827.

WE have the honour to report to your Lordship the arrival at this Port from the Coast of Africa, of the *Spanish* Schooner "*Indagadora*," which was fitted out here, and sailed for that Coast, in the Month of July last. It is as notorious as in all similar Cases, that this Vessel had, previous to her entering this Port, landed a Cargo of Slaves upon the Coast of this Island.

We have the honour to enclose a Copy of the Note which we addressed to the Captain General upon this occasion, together with a Translation of His Excellency's Reply, informing us that he had made a Communication upon the subject to the Naval Department, in order that the necessary investigation might be instituted, of the result of which we should be duly informed.

We have the honour to be, &c.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley.*  
                  &c.                   &c.                   &c.

First Enclosure in No. 66.

(Translation.)

*The British Commissioners to The Captain General.*

SIR,

Havana, December 10, 1827.

IN conformity with our usual practice, we have the honour to apprise your Excellency, that it will be our duty to report to His Majesty's Government, the arrival here of another *Spanish* Vessel, the Schooner "*Indagadora*," from the Coast of Africa. She was fitted out at this Port, and sailed for that Coast, in the Month of July last; and it is as notorious as in all similar Cases, that, previous to her arrival here, she had landed a Cargo of Slaves on the Coast of this Island.

We avail ourselves of this occasion, &c.

(Signed) H. T. KILBEE.  
W. S. MACLEAY.

*His Excellency The Captain General.*

HAVANA

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Second Enclosure in No. 66. (Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, December 11, 1827.

I HAVE received your Note, dated Yesterday, in which you apprise me, that it will be your duty to report to your Government, the arrival at this Port, from the Coast of Africa, of the Spanish Schooner "*Indagadora*," which you state to me was fitted out here, and sailed for that Coast, in the Month of July last; having, previous to her arrival at this said Port, landed on the Coast of this Island a Cargo of Slaves.

Being duly apprised of all this, I state to you, in reply, that, in obedience to the Order of the King, my august Sovereign, of the 2d January 1826, I have made, under this day's date, the necessary communication upon the subject to the Second in Command of the Naval Forces on this station, in order that he may institute the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed) FRANCISCO DIONISIO VIVES.

*His Britannick Majesty's Commissioners.*

No. 67.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 1, 1828.)*

MY LORD,

Havana, December 19, 1827.

SINCE closing our Despatch of the 12th Instant, we have received a Note, of which a Translation is enclosed, from the Captain General, upon the subject of the Spanish Schooner "*Indagadora*," the arrival of which at this Port was reported to your Lordship in that Despatch.

In this Note His Excellency has communicated the result of the investigation undertaken by the Naval Department, respecting that Vessel, which is precisely the same as those in other previous Cases, namely, that the examination of the Log-book did not afford any ground for supposing that she had been engaged in the Slave-trade.

We have the honour to be, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.The Right Hon. The Earl of Dudley,  
&c. &c. &c.

Enclosure in No. 67.

(Translation.)

*The Captain General to The British Commissioners.*

GENTLEMEN,

Havana, December 18, 1827.

THE Second in Command of the Naval Forces on this Station writes to me, under date of Yesterday, as follows:—

"Most Excellent Sir,— Under date the 11th Instant, the Commandant of Matriculas of this Island has written to me as follows:— 'The Log-books presented by the Second Mate of the Spanish Schooner "*Indagadora*" (the Captain of that Vessel, Don Santiago Manzano, being ill) having been examined by the Adjutant of this Department, Lieutenant Don Bartolomi Masquez Pacheco, no charge whatever is found therein to make against her during the Voyage to and from St. Thomas, for which Island she sailed from this Port.' And I transmit this Communication to Your Excellency, in answer to your Letter of the same date, in which you enclose the Translation of that addressed to you on the 10th Instant, by His Britannick Majesty's Commissioners, relative to the same Vessel."

I communicate this to you, in continuation of what I stated to you on the 11th Instant.

God preserve you many Years.

(Signed) FRANCISCO DIONISIO VIVES.

*The British Commissioners.*

## No. 68.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 13, 1828.)*

MY LORD,

Havana, December 31, 1827.

DURING the present Month, 5 *Spanish Vessels*, the names of which are contained in the enclosed List, have sailed from this Port for the Coast of Africa.

Others are, we understand, fitting out for the same destination.

The Brig "*Guerrero*," which sailed for that Coast in July last, was, on her return some days ago, chased by His Majesty's Schooner "*Nimble*," and run ashore on the Florida Reef. The Negroes, after the Brig had been taken possession of by the "*Nimble*," were transferred to some American Wreckers; 2 of which during the night cut their cables and escaped; the Spaniards belonging to the "*Guerrero*," having by promises or force obtained the command of them. The Schooners subsequently landed the Negroes, to the number of about 400, on the Coast of this Island.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 68.

*List of Spanish Vessels that have sailed from the Port of Havana for the Coast of Africa, during the Month of December 1827.*

December 21.	Brig Almarante,	- - -	Domingo Antonio de Castro,	- - -	Master.
" 21.	Schooner Maria,	- - -	Francisco Romero,	- - -	Do.
" 22.	Brig Ricardo,	- - -	Bartolomé Aizpurua,	- - -	Do.
" 25.	Schooner Esperanza,	- - -	Eustaquio Perez de Noriega,	- - -	Do.
" 31.	Brigantine Intrepido,	- - -	José de Puiz y Miro,	- - -	Do.

## No. 69.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 13.)*

MY LORD,

Havana, January 1, 1828.

IN reference to the Instructions, directing us to transmit Half-Yearly Returns of the Cases adjudicated in the Court of Mixed Commission established here, we have the honour to inform your Lordship that no Vessel has, within the last 6 Months, been brought in here for adjudication.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## No. 70.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 13.)*

(Extract.)

Havana, January 1, 1828.

YOUR Lordship will perceive by the enclosed List, that of the 15 Vessels which sailed from this Port for the Coast of Africa during the Year 1826, only 9 have succeeded in landing their Cargoes of Negroes, and 2 of those 9 were subsequently captured on their passage round to this Port,—1 by the Mexicans, and the other by the Colombians; 7 arrived here in safety; the remaining 6 have probably been either captured or lost on the Coast of Africa.

We have also the honour to enclose Lists of the Departures and Arrivals of Slave-vessels during the Year 1827.

The number of the former was 27, of which 4 have already returned in safety, and 1, the "*Guerriero*," has been lost on the Florida Reef, after



Capture by a British Cruizer; the greater part of her Cargo, however, was unfortunately landed clandestinely on this Island by some American Wreckers.

The number of Arrivals has been 10, or rather that of the Vessels which have succeeded in landing their Negroes, for in that number are included the 2 Captures before mentioned, made by the Mexicans and Colombians, and the "Guerrero;" the Negroes imported by those Vessels amounted, as nearly as we have been enabled to ascertain, to about 3,500.

The number of Arrivals in 1827, differs little from that in 1826; but the number of Departures has considerably encreased, (from 15 to 27,) and as the greater part have sailed within the last 4 Months, and several are still fitting out, there is every appearance of the traffick again becoming as brisk and extensive as during the Years 1824 and 1825.

The mode of carrying it on is precisely the same as has been stated in former General Reports; and no effect whatever has been produced here, either by the Royal Order of His Catholick Majesty, issued in January 1826, or the repeated remonstrances of His Majesty's Government. That Royal Order has never to our knowledge been acted upon by the Authorities here, of their own accord, but only at our instigation, and then in a manner precluding the hope of any successful result. When we address a Representation to the Captain-General, if it be a Case coming under his immediate controul, instead of making use of the information we transmit, and employing the ample executive means in his power to investigate the Case, he submist it to his Legal Assessors. If it be a Case belonging to the jurisdiction of the Naval Department, he transmits the Representation to it, but without pointing out the necessity of commencing the investigation, immediately after the arrival of the suspicious Vessel, and the expediency of not confining it, as appears now to be the case, to the mere examination of the Log-book; thereby obeying the strict letter, but by no means the true spirit, of the Royal Order of January 1826. It is well worthy of observation, that, in the proceedings, whether under the Captain General or the Naval Department, special care is taken to set forth, in the most ostensible manner, that they are undertaken in consequence of the denunciation of the British Commissioners.

These observations, as far as they regard the Naval Department, are fully justified by the numerous Reports which we have made to His Majesty's Government, of Vessels arriving from the Coast of Africa; and, as far as regards the Captain-General, by the Reports, respecting one of the most scandalous Cases that has yet occurred, which were made in the course of last Year.

We allude to the Case of the "*Tres Manuelas*," which Vessel brought from the Coast of Africa with her Cargo of Slaves, 7 Sailors belonging to a British Vessel, which had been wrecked there; 4 of these Sailors deposed upon oath to the facts, of the Vessel having brought a Cargo of Slaves, and having landed them at the Port of Vanes, a few leagues to the Westward of Havana. A Statement of the Case, accompanied by the Depositions of the Sailors, was without loss of time transmitted to the Captain-General; and he was apprised where the latter might be found, should it be judged necessary that they should undergo a personal examination before a Spanish Tribunal. No attention was paid to the Depositions; no such examination took place,—the Parties concerned in the transaction remained unmolested: the Vessel itself was allowed to sail again for the same Coast, doubtless to engage again in the same traffick; and no Reply, but the mere acknowledgment of its receipt, was given to our Representation.

The notoriety with which the traffick is carried on, is, if possible, greater than ever; no concealment whatever is found necessary, and the publick Brokers are as openly employed in obtaining Purchasers for newly imported Negroes, and Persons to take shares in Slave-trade Adventures, as in any other business whatever.

This notoriety is such as, we may safely venture to affirm, utterly precludes the possibility, either of the Authorities of the Island being ignorant of the Cases of illicit Slave-trade that occur, or of our being mistaken in our Reports respecting them; but, even did it not exist, the most incredulous must be convinced of the great extent of that traffick, by the fact that, within

the last 6 Years, no less than 138 Vessels have sailed publickly from this Port alone, for the Coast of Africa; every one of which, that has been met by a British Cruizer on her return, having been found with a Cargo of Negroes; and not a solitary instance having yet occurred of one of them coming back with a lawful Cargo of Merchandize. Even the dissimulation formerly practised, with respect to the Place of Departure, is now no longer thought necessary,—all these Vessels entering avowedly from the Coast of Africa.

We have never attempted to conceal, but, on the contrary, have frequently pointed out, the difficulties which oppose the effectual suppression of illicit Slave-trade in this Island, even were this Government really inclined to attempt to carry it into effect; but what we complain of is, the decided reluctance manifested by the Authorities, effectually to interfere in transactions connected with that traffick; and, if compelled to interfere, their obviously anxious desire to shew the publick that they do so, not of their own accord.

A necessary consequence of this systematick conduct, continued for so long a period, on the part of the Authorities, is, that it is the universal and firm conviction of the People of this Island, that their proceedings are approved by the Government of His Catholick Majesty.

We do not consider ourselves to be warranted in reporting to your Lordship the rumours that reach us, respecting the publick and scandalous manner in which the Slave-trade is carried on in the other Ports of this Island; but what we witness in this City, the residence of the Chief Governor, to whom every Case is represented, and who is aware that it will moreover be reported to His Majesty's Government, affords strong inducement to believe, that all those rumours, with respect to the publicity of the traffick, in Places where there is no controul whatever, have their foundation in truth.

To conclude, we can only repeat here, what has been stated to His Majesty's Government, and to the Captain-General, upwards of 2 Years ago, that the Slave-trade with this Island is fully as extensive, and is carried on in all its branches with very nearly as much publicity, as if our Treaty were not in existence.

(Signed) HENRY T. KILBEE.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

W. S. MACLEAY.

#### First Enclosure in No. 70.

*List of Vessels which sailed for the Coast of Africa, from the Port of Havana, during the Year 1826, with the result of their respective Voyages, as far as can be ascertained.*

Nation.	Class.	Name.	Result of Voyages.
Portuguese	Brig	Aurora de Cabo - -	Unknown.
Spanish	Brigantine	Xerxes - - - - -	{ Landed Cargo of Negroes on the South side of the Island, and subsequently captured by Colombians.
Ditto	Schooner	Hortensia - - - - -	Captured by Colombians.
Ditto	Ditto	Paulita - - - - -	Unknown.
Ditto	Ditto	Escudera - - - - -	Unknown.
Ditto	Brig	Currutaco - - - - -	{ Returned Oct. 3, 1826, after landing a Cargo of Slaves.
Ditto	Schooner	Minerva - - - - -	Returned Aug. 16, — ditto ditto.
Ditto	Ditto	Dolorita - - - - -	Returned Nov. 26, — ditto ditto.
Ditto	Ditto	Jacinta - - - - -	Returned Nov. 16, — ditto ditto.
Ditto	Brig	Breves (Conquistador)	Returned Feb. 21, 1827, ditto ditto.
Ditto	Ditto	Pepe - - - - -	Returned Nov. 16, 1826, ditto ditto.
Ditto	Schooner	Montañeza - - - - -	{ Landed Cargo of Slaves at Bahia Honda, and subsequently captured by Mexicans.
Ditto	Ditto	Amelia - - - - -	Unknown.
Ditto	Ditto	Femeridad - - - - -	Captured, and carried to Sierra Leone.
Ditto	Ditto	Hermosa Dolorita - -	{ Returned July 10, 1827, after landing a Cargo of Slaves.

## Second Enclosure in No. 70.

*List of Vessels which have sailed from Havana for the Coast of Africa, during the Year 1827.*

Date of Departure.	Nation.	Class.	Name.	Master.	Observations.
1827.					
Jan. 3,	Spanish	Schooner	Vigilancia Habanera	D. A. de Castro - -	Returned June 23.
" 10,	French	Brig	Paul - - - - -	F. G. Forcain.	
" 31,	Spanish	Schooner	Monica - - - - -	J. B. Sustacha.	
March 1,	Ditto	Brigantine	Nuevo Orestes - -	S. Manzana - - - -	Returned June 19.
" 22,	Ditto	Schooner	Tres Manueles - -	J. Gardullo - - - -	Ditto Aug. 1.
July 12,	Ditto	Ditto	Lambery - - - - -	Ped. Ant. Saldyendo.	
" 14,	Ditto	Brig	Guerrero - - - - -	José Gomez - - -	{ Captured, but afterwards lost on the Florida Reef.
" 20,	Ditto	Schooner	Indagadora - - - -	S. Manzana - - - -	{ Returned Dec. 6, 1827.
" 26,	Ditto	Brig	Gallo - - - - -	Ramon Gonzalez -	Ditto, Jan. 5, 1828.
Aug. 9,	Ditto	Schooner	Gertrudis - - - - -	José Pruna,	
" 11,	Ditto	Brigantine	Emprendedor - - -	Martin Vilar.	
" 15,	Ditto	Brig	Volador - - - - -	Francisco Amigo.	
Sept. 9,	Ditto	Schooner	Tres Manueles - -	José Gardullo.	
" 9,	Ditto	Ditto	Hermosa Dolorita -	Pedro Blanco.	
" 9,	Ditto	Ditto	{ Vigilancia Haba. (a) Jacinta }	Franco. Cerro.	
" 12,	Ditto	Ditto	Primera - - - - -	Anto. Negrete.	
" 19,	Ditto	Ditto	Araucana - - - - -	Claudio Pitaluga.	
" 23,	Ditto	Ditto	Medea - - - - -	Joaquin Blanco.	
" 23,	Ditto	Ditto	Segunda Teresa - -	Mariano Carbó.	
Oct. 8,	Ditto	Ditto	Feliz Victoria - - -	José Roquez.	
Nov. 1,	Ditto	Ditto	Manuelita - - - -	José Bosch.	
" 20,	Ditto	Ditto	Maria - - - - -	Salvador Pozo.	
Dec. 21,	Ditto	Brig	Almirante - - - - -	{ Domingo Anto. de Castro.	
" 21,	Ditto	Schooner	Maria - - - - -	Franco. Romero.	
" 22,	Ditto	Brig	Ricardo - - - - -	Bartolomé Aizpurua	
" 25,	Ditto	Schooner	Esperanza - - - -	{ Eustaquio Perez de Noriega.	
" 31,	Ditto	Brigantine	Intrepido - - - - -	José de Puig y Mir.	

## Third Enclosure in No. 70.

*List of Vessels which have returned from the Coast of Africa, and have succeeded in landing Cargoes of Slaves in the Neighbourhood of Havana, during the Year 1827.*

Date of Arrival.	Nation.	Class.	Name.	Master.	Observations.
1827.					
Jan.	Spanish	Schooner	Montañesa - - - -	- - - - -	{ Captured by Mexicans after landing Negroes
Feb. 21	Ditto	Brig	Breves - - - - -	A Capera.	
"	Ditto	Ditto	Xerxes - - - - -	- - - - -	{ Captured by Colombians after landing Negroes
April 5	Ditto	Schooner	Micaela - - - - -	Juan Dolerga.	
June 19	Ditto	Brigantine	Nuevo Orestes - -	S. Manzana.	
" 23	Ditto	Schooner	{ Vigilancia Haba. } (a) Jacinta - -	D. A. de Castro.	
July 10	Ditto	Ditto	Dolorita - - - - -	Pedro Blanco.	
Aug. 1	Ditto	Ditto	Tres Manuelas - -	J. Gardullo.	
Dec. 6	Ditto	Ditto	Indagadora - - - -	S. Manzana.	
"	Ditto	Brig	Guerrero - - - - -	- - - - -	{ Captured by H. M. Schooner Nimble, but subsequently run ashore on the Florida Reef: 400 of the Negroes landed on the Island by 2 Wreckers

## No. 71.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 13.)*

MY LORD,

Havana, January 3, 1828.

LIEUTENANT HOLLAND, Commander of His Majesty's Schooner, "Nimble," has informed us that, on the 19th Ultimo, he fell in with and chased the Spanish Brig "Guerrero," and having come up with her, an action took place after night fall, which ceased in consequence of the Spaniard having made the usual night signal of surrender, that is, ceasing to fire and shewing a light. Shortly after both Vessels ran ashore on the Florida Reef. On the Morning of the 20th, some American Wreckers came to their assistance, and the "Nimble," was got off. The "Guerrero," however, which was found to have a Cargo of between 500 and 600 Negroes on board, was so much damaged that it was judged necessary to abandon her; and Lieutenant Holland engaged some of the Wreckers to take on board the Cargo of Negroes, and part of the Spanish Crew, for the purpose of conveying them to Key West. The whole of the Negroes, and a considerable part of the Crew, were accordingly transferred from the "Guerrero" to 3 Wreckers, in the course of the 20th, but in the early part of the same Night two of the latter, of which the Spaniards by force

or promises had succeeded in getting the command, cut their cables and put to Sea. The "Nimble" fired upon them with musquetry, but was unable to pursue them, having lost her rudder. The 2 Wreckers succeeded in reaching the Port of Santa Cruz, between the Havana and Matanzas, on the following day; and immediately landed the Negroes, to the number of about 400. The 3d Wrecker proceeded with the "Nimble" to Key West, where she landed about 120 Negroes. Of these the *American* Authorities subsequently took possession, which act gave rise to a Correspondence between them and Lieutenant Holland, that will probably reach His Majesty's Government through another channel.

Lieutenant Holland also informed us, that 4 men belonging to one of the Wreckers that had landed the Negroes at Santa Cruz, were at the Havana, and that 1 of them was a British Subject, and then actually on board his Schooner.

Being in hopes of obtaining direct evidence of the disembarkation of Negroes in this Island, we suggested to Lieutenant Holland the expediency of his addressing a Letter to us, apprising us of this last mentioned circumstance. We subsequently succeeded in obtaining the attendance of William Wright, the British Subject, whose Deposition upon oath was taken by His Majesty's Commissary Judge; and by it the fact of the landing of the Slaves, as before related, was fully established. Copies of Lieutenant Holland's Letter, and of Wright's Deposition, are enclosed.

Being in possession of such unquestionable evidence to the fact of the clandestine disembarkation of Negroes on this Island, we judged it to be our duty to address a Representation to the Captain-General, apprising him of all the circumstances of the case, and enclosing him a Copy of Wright's Deposition; and we informed him at the same time where the latter and the 3 American Sailors, who had come with him, were to be found. We concluded by expressing our confident hope, that the information which we had given His Excellency would enable him to trace out the Negroes, in order that the benefit of emancipation, to which they had an undoubted right, might be conferred upon them.

We have the honour to enclose a Copy of our Note to the Captain-General, together with a Translation of his Reply. In the latter, your Lordship will find fully exemplified what we have elsewhere stated respecting the conduct of His Excellency in similar cases. Instead, as might naturally be expected, of his availing himself of the information which we transmitted, for the purpose of discovering, by enquiries from the Authorities and others upon the Spot, whether such disembarkation had taken place, and if so, of ascertaining where the Negroes had been removed; he informs us, that he has sent our Note, together with a Letter which he had himself received from Lieutenant Holland, to one of his Legal Assessors for his opinion thereupon.

Wright, in his Deposition, states, that he and the 3 *American* Sailors quitted the Wrecker at Santa Cruz, where the Negroes had been landed, being apprehensive that their lives were in danger from the *Spaniards*; and that they came round to this Port in an open Boat, and immediately presented themselves to the Spanish Authorities (one of whom he firmly believes, though he did not venture to swear, was the Governor), to whom they reported all the circumstances attending the escape of the Wreckers and the landing of the Negroes. The same Authorities subsequently ordered them to go out of the Harbour in the same small Boat in which they came, and remain within gunshot of the Morro. It is difficult to put any charitable construction upon such an extraordinary order; but though we have slightly alluded to the circumstances under which those Sailors arrived here, we did not think it within our province to tax the Authorities here with such a manifest breach of the laws of humanity.

The departure of the "*Gucrrero*" was reported in our Despatch of the 31st of July 1827, and it is there stated that she was well armed, and had a Crew of 90 men; and that her probable intention was to plunder of their Cargoes of Slaves, any weaker Vessels that she might fall in with on the Coast of Africa. We understand that she carried her intention fully into effect, and that she

not only plundered Slave-vessels, but some other Merchant-ships; and accordingly at the time of her capture and loss she had a valuable Cargo of European merchandize on board.

The "*Guerrero*" or "*San Jose*" was by far the largest and finest Vessel, and considered to be the best sailer, employed in the Slave-trade from this Port. We believe she carried 14 or 16 guns. Her Capture, therefore, by a Vessel of such inferior force as the "*Nimble*," while highly creditable to the latter, affords another convincing proof to those concerned in illicit Slave-trade, how little any effectual resistance can be expected from their Sailors, whatever advantages they may possess, when opposed to His Majesty's Navy. A few more hours of day-light would, there can be no doubt, have enabled Lieutenant Holland to have saved his Prize, and the presence of both Vessels together in this Port would, we are confident, have had a most salutary effect upon those inclined to embark in the traffick.

We have the honour to be, &c.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 71.

*Lieutenant Holland to the British Commissioners.*

GENTLEMEN,

*His Majesty's Schooner "Nimble," Havana, December 31, 1827.*

HAVING, on the Night of the 19th of December, captured the Spanish Brig "*Guerrero*," with a Cargo of Negroes from the Coast of Africa, and a considerable part of the same, about 400 having escaped, after being placed on board 2 American Wrecking Vessels, I think proper to apprize you of the circumstance, and at the same time to inform you, that I have ascertained they were landed at Santa Cruz, on this Island, and that 4 men, part of the Crew of one of the Wreckers, are now at this Place, who are Witnesses to the fact. The names of these Individuals are subjoined; the first of whom is an Englishman, and is at present on board my Vessel; the other 3 are Americans, and I believe may be heard of on board the American Sloop of War now in this Port.

I remain, &c.

(Signed) EDWARD HOLLAND,  
Lieut. and Commander.

*His Majesty's Commissioners.*

William Wright,	-	English.
Thomas Smith,	-	American.
Accey Kingsbury,	-	Do.
John Gorman,	-	Do.

Second Enclosure in No. 71.

*Deposition of William Wright, in the Case of the "Guerrero."*

APPEARED personally, before me, Henry T. Kilbee, His Majesty's Commissary Judge of the Mixed Commission established at Havannah, under the Treaty between His Majesty and The King of Spain, for the prevention of the illicit Traffick in Slaves, William Wright, a Native of Londonderry, in Ireland, who, being duly sworn, maketh oath and saith, that he was lately a Sailor on board the American Schooner "*Thorn*," of Key West, Charles Grover, Master; and that on the Morning of the 20th day of the present Month of December, 2 Vessels were seen on Shore on the Florida Reef, which, when the said Schooner came up to them, proved to be the British Schooner of War "*Nimble*," and her Prize, a Spanish Brig, with a Cargo of Negroes on board, which Brig, this Deponent heard, was called the "*Guerrero*;" that the Master of the said American Schooner having communicated with the Commander of the aforesaid British Schooner of War, proceeded to take on board his Vessel as many Negroes as he could from the Spanish Brig, and, in the course of the same day, received on board about 300, for the purpose, as this Deponent understands, of conveying them to Key West, these Negroes being accompanied by 52 Spaniards, part of the Crew of the Brig "*Guerrero*;" that, about half-past 8 at Night, the cable was cut, as this Deponent verily believes, by those Spaniards, and the Schooner put to Sea, although fired upon by the aforesaid British Schooner; that she was navigated by the Spaniards, and arrived on the following day at a Port in the Island of Cuba, between the Havana and Matanzas, called Santa Cruz, where the Negroes were immediately landed; that this Deponent likewise saw an American Smack, which had also received a considerable number of Negroes from the Brig "*Guerrero*," land them at the same Port of Santa Cruz, about the

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same time as the Schooner to which he belonged. This Deponent declareth that he does not know whether the Master of the *American Schooner* was induced to take the step of quitting the *British Schooner of War*, by the promises or the threats of the Spaniards; but he conceives that resistance would have been of little avail, as the latter amounted to 52, while the *American Crew* consisted, at that time, only of 8. This Deponent further declares, that the Master of his Schooner went ashore with the *Spaniards*, and that, during his absence, reports reached the Vessel, that it was the intention of the said *Spaniards* to murder the Crew during the Night; being alarmed at which, this Deponent, with 3 *American Sailors*, named Thomas Smith, Acey Kingsbury, and John Gorman, abandoned the Schooner, and, in the open Boat, sailed for this Port of Havana, where they arrived on the following day, and immediately reported all the circumstances of the Case to the Captain of the Port, and subsequently to other *Spanish Authorities*, by whom they were ordered to go out of the Harbour in the same small Boat in which they came, and remain within gun-shot of the Morro; that they accordingly proceeded out of the Harbour, but, finding the Sea very rough, they landed a little to the Westward, and, leaving their Boat in a small Cove, again came to the City of Havana, where this Deponent has since remained.

(Signed) WILLIAM <sup>His</sup> × WRIGHT.  
Mark.

In the City of Havana, on the 31st day of December 1827,  
the said William Wright was duly sworn to the truth of  
this Affidavit, Before me, (Signed) HENRY T. KILBEE.

## Third Enclosure in No. 71.

*The British Commissioners to The Captain-General.*

SIR,

Havana, December 31, 1827.

WE have the honour to transmit to your Excellency a Copy of a Letter, which we have received from the Commander of the *British Schooner of War "Nimble,"* reporting to us the disembarkation of about 400 Negroes at the Port of Santa Cruz, in this Island, some leagues to the Westward of Havana.

Those Negroes formed part of the Cargo of the *Spanish Brig "Guerrero,"* which sailed from this Port for the Coast of Africa on the 14th of July last, and, upon her return, was chased by the "*Nimble*," and, after surrendering, ran ashore on the Florida Reef, on the Night of the 19th Instant.

The "*Nimble*" also ran aground; but, on the Morning of the 20th, some American Wreckers having come to her assistance, she was got off. The "*Guerrero*," however, was so much damaged that it was found necessary to abandon her; and Lieutenant Holland, the Commander of the "*Nimble*," engaged some of those Wreckers to take on board part of the Crew (20 of which he received on board his own Vessel), and the whole Cargo of Negroes, amounting to about 500, for the purpose of conveying them to Cayo Hueso, where he hoped to be able to repair the injury which his own Vessel had sustained, and to obtain water, and whatever else he might require, for the purpose of conveying the Negroes and Crew of the "*Guerrero*" to the Havana.

The whole of the *Spanish Crew*, with the exception of the 20 who were taken on board the "*Nimble*," and the Negroes, were accordingly transferred to 3 *American Wreckers* in the course of the 20th Instant; but in the early part of the Night, 2 of the latter, of which the Spaniards, by force or promises, had succeeded in getting the command, cut their cables and put to Sea. The "*Nimble*" fired upon them with musquetry, but was unable to pursue them, having lost her rudder. The 2 Wreckers succeeded in reaching the Port of Santa Cruz on the following day, and immediately landed the Negroes, to the number of about 400, viz. 300 from one of the Wreckers, and, it is supposed, about 100 from the other.

There are now here 4 Sailors belonging to the Wrecker, which had on board 300 Negroes, who were Witnesses to the whole transaction; 3 of them, named Thomas Smith, Acey Kingsbury, and John Gorman, are *Americans*, and, we understand, may be heard of on board the *American Corvette "Natches,"* now in the Harbour; the 4th, William Wright, is a *British Subject*, and at present serving in His Britannick Majesty's Schooner "*Nimble*," which is also in this Harbour.

As soon as we had learned that a *British Subject* had been concerned in this transaction, having served as a Sailor in a Vessel which had clandestinely landed Negroes on the Coast of this Island, thereby violating the Laws of his Country; in obedience to our Instructions, we adopted all the means in our power to investigate the matter, and, having obtained the attendance of that Individual, His Majesty's Commissary Judge, in his capacity as a *British Agent*, took his Deposition upon oath.

This Deposition fully confirms the facts above related, and moreover shews in what manner the Deponent and the other 3 Sailors of the *American Wrecker* arrived at this Port, when they immediately reported to the Authorities of His Catholick Majesty all the circumstances of the Case.

This clearly proved fact, of the disembarkation of Negroes upon the Coast of this Island, it is our duty to report to our Government, and consequently to apprise your Excellency thereof; and, in order to facilitate, as far as lies in our power, the enquiry respecting the Case, and to afford your Excellency the most correct information which we possess on the subject, we have the honour to enclose a Copy of the abovementioned Deposition, which we confidently hope will enable your Excellency to trace out those unfortunate Negroes, in order that the benefit of emancipation may be conferred upon them, to which they are undoubtedly entitled, whether it be by Decree of the Mixed Commission, under the Treaty between Great Britain and Spain, or by one from your Excellency, in virtue of the Royal Order of January 1826.

We avail ourselves, &c.  
(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

His Excellency the Captain General.

Fourth Enclosure in No. 71.

(Translation.)

*The Captain-General to the British Commissioners.*

GENTLEMEN,

Havana, January 2, 1828.

WITH your Note of the 31st Ult., which did not reach my hands till Yesterday at Noon, I have received the 2 Copies enclosed therein, the one, of the Letter addressed to you by the Commandant of His Britannick Majesty's Schooner "Nimble," reporting to you his having captured the Spanish Brig "Guerrero," with a Cargo of Negroes from the Coast of Africa, which he transhipped on board of some American Wreckers, but that the latter had escaped and landed the Negroes at Santa Cruz, in this Island, as the said Commandant avers; and the other, of the Deposition of an English Sailor, who was on board 1 of the American Wreckers, relating to the same subject: and being duly apprized of what you have stated upon this occasion, I inform you in reply, that, under this day's date, recommending all possible despatch, I have transmitted for the opinion of the Second Assessor-General of this Government, not only those Documents, but the Letter which the abovementioned Commandant of His Britannick Majesty's Schooner "Nimble," addressed direct to me, apprizing me of the same occurrence, and that he had brought on board his Vessel the remainder of the Crew of the captured Brig, in number 18, together with 1 of the Mates, and the Boatswain, which Individuals I caused instantly to be placed in prison, where they are in perfect security to await the result of the proceedings.

God preserve you many Years,

(Signed) FRANCO. DIONISIO VIVES.

*His Britannick Majesty's Commissioners.*

No. 72.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 13.)*

(Extract.)

Havana, January 3, 1828.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 28th of September 1827, enclosing, for any observation that we may have to make thereupon, a Communication from His Catholick Majesty's Envoy in London, upon the subject of the Spanish Vessels "Dichosa" and "Maria Isabel," reported by us as having been engaged in illicit Slave-trade.

The Documents transmitted by the Spanish Envoy, are Copies of the legal Proceedings under the Marine Department at Havana, which were instituted in consequence of a Representation made by us to the Captain-General, for the purpose of ascertaining whether the abovementioned Spanish Vessels, viz., the Brig "Maria Isabel," and the Schooner "Sto. Cristo de la Salud," alias, "La Dichosa," had landed Cargoes of Negroes on the Coast of this Island; which we asserted was notorious. The Proceedings in the 2 Cases were perfectly similar, and the same Officer was appointed to investigate both, and to examine the Witnesses. The latter consisting of the Captain of 1 of the Vessels, and several Individuals belonging to the Crews of both, appear to have been asked but few questions; and they uniformly deposed that their respective Vessels had sailed from Cadiz, the "Maria Isabel," with a Cargo, and the "Dichosa" in ballast, for the Danish Island of St. Thomas, where they remained, the first about 2 Months, and the other about 4, and then sailed for Havana in ballast, at which Place they arrived; the "Dichosa" having previously put into Bahia Honda, in consequence of the illness of the Captain, and of a suspicious sail being in sight; and all the Witnesses conclude by declaring that they knew nothing about any disembarkation of African Negroes, and that they had none such on board their respective Vessels.

It is very remarkable that no dates whatever were required from the Witnesses, and neither the time when the Vessels sailed from Cadiz, nor that when they arrived at St. Thomas, is mentioned.

The Captain's Journal in neither Case was produced, one asserting that he had mislaid his, and the other Captain having left the Havana prior to the commencement of the investigation.

Upon this Evidence it was decided, that there was no reason whatever for believing that the Vessels in question had landed Negroes on the Coast of this Island.



It is most obvious throughout the whole of these proceedings, that the real object in view was not to investigate the truth, but to procure a proof in legal form by which our denunciation might appear unfounded.

When the "*Maria Isabel*" arrived, as she was not one of those Vessels that had been fitted out publicly at this Port for the African Trade, respecting the criminality of which no doubt can be seriously entertained, we delayed mentioning the Case to the Captain-General, until the fact of her having landed a Cargo of Negroes on this Island was a matter of such complete notoriety here, as almost to preclude the very possibility of doubt, being well aware of the arms we should put into the hands of the Protectors of the traffick, and of the discredit which they would undoubtedly take the opportunity of throwing upon our Reports, were a single instance to occur in which it could be fairly proved that we had been mistaken.

In the other Case, that of the "*Dichosa*," besides the same notoriety, we were in possession of positive testimony. On the Morning of the very day she arrived, the late Lieutenant Smith, of His Majesty's Schooner "*Magpie*," came into Port, and immediately stated to us, that he had been informed by more than one person on the Coast, (and that without any mystery whatever) when and where she had landed her Cargo of Slaves;—that he had subsequently visited her, notwithstanding the opposition made by the *Spanish* Vessels of War, under whose Convoy she then was, and had found all the usual appearances of her having recently had Slaves on board. Under these circumstances he requested our opinion, whether the Mixed Commission would condemn her, were he to take and bring her in here. We replied to Lieutenant Smith, that the capturing her while under the Convoy of a *Spanish* Vessel of War was a point upon which we could not venture to give an opinion; but that if the Vessel were fairly captured and brought in here, there could be no doubt that she would be liable to condemnation under the Additional Articles to the Treaty, provided Witnesses could be brought forward to prove the disembarkation of the Negroes. Lieutenant Smith, conceiving that this would be most difficult, if not impossible, gave up the idea of detaining the "*Dichosa*." His testimony, however, were we even to allow that it does not amount to complete legal proof, was certainly sufficient to remove all doubt of the fact.

It is positively declared by the *Spanish* Witnesses, that they entered on board the "*Maria Isabel*," and the "*Dichosa*," at Cadiz, where the former shipped a Cargo of *Peninsular produce*, the latter being in ballast; and that they both sailed from that Port, and proceeded to St. Thomas, without touching at any other. Now, in the Papers presented to Parliament last Year, Class B., Spain, No. 11, it will be seen that those two Vessels had excited the suspicions of His Majesty's Consul at Cadiz; and that both, or at least one of them, the "*Maria Isabel*," had proceeded from that Port to Gibraltar in the Month of January 1826, and that she there took on board a Cargo, which we may safely assume, was not *Peninsular produce*. Here then we have the testimony of at least some of the Witnesses contradicted in a most material point, unless indeed the "*Maria Isabel*" returned from Gibraltar to Cadiz, which would naturally have been reported by Mr. Brackenbury, and is by no means probable; and even in that case there is a contradiction with respect to the nature of the Cargo.

We have thus, we think, shewn, that the Cases upon which the *Spanish* Government have thought proper to rest the justification of the conduct of the Authorities here, and their insinuations of the little credit that ought to be given to the Reports of His Majesty's Commissioners, are, as far as notoriety goes, Cases of as publick illicit Slave-trade as any others that occur:—that there is, moreover, direct and unquestionable, if not legal, testimony to the fact of one of the Vessels having landed a Cargo of Slaves;—the Depositions of their Witnesses are vague and defective;—and their Evidence is contradicted in a most material point, by facts.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*

&c. &c. &c.

No. 73.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 18.)*

MY LORD,

Havana, January 12, 1828.

ON the 3d Instant, the *Spanish Schooner* "*Indagadora*," Manuel Fernandez, Master, sailed for the Coast of Africa. The arrival of this Vessel from that Coast was reported to your Lordship in our Despatch of the 12th of December, of last Year.

On the 4th Instant, the *Spanish Brig* "*Gallo*," which sailed for the Coast of Africa on the 26th of July 1827, returned to this Port in ballast: according to common report she landed between 300 and 400 Negroes on the South side of this Island.

We have the honour to enclose a Copy of the Note which we addressed to the Captain General respecting this Case, together with a Translation of His Excellency's Reply. They are both precisely to the same effect as those which we have so frequently had the honour to transmit to your Lordship on similar occasions.

We have the honour to be, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

First Enclosure No. 73.

*The British Commissioners to the Captain General.*

Havana, January 7, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, have the honour, in conformity with their usual practice, to apprise His Excellency the Captain General, that they will have to report to His Majesty's Government, the return, as announced in the *Diario* of Yesterday, of another of the *Spanish Vessels* which sailed for the Coast of Africa last Year, viz: the Brig "*Gallo*." As usual in such Cases she entered this Port in ballast, but it is perfectly notorious that, previously, she had landed a Cargo of between 300 and 400 Slaves on the Coast of this Island.

The Undersigned avail themselves, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.*His Excellency the Captain General.*

Second Enclosure in No. 73.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, January 8, 1828.

I HAVE just received your Note, dated Yesterday, in which you inform me, that it will be your duty to report to your Government the arrival at this Port of the *Spanish Brig* "*Gallo*," from the Coast of Africa, which you state was fitted out at this Port, and sailed for that Coast last Year, having, previous to her arrival here, landed on the Coast of this Island a Cargo of from 300 to 400 Slaves.

I am duly apprised of all this, and in reply I inform you, that in obedience to the Order of the King, my august Sovereign, of the 2d of January 1826, I have made, under this day's date, the necessary Communication to the Second in Command of the Naval Forces on this Station, in order that he may institute the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

*His Britannick Majesty's Commissioners.*

(Signed)

FRANCO. DIONO. VIVES.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Feb. 18.)*

(Extract.)

*Havana, January 15, 1828.*

WE have the honour to enclose the Translation of a Note which we have received from the Captain General, informing us of the result of the investigation in the Case of the Brig "*Gallo*," the arrival of which at this Port was reported to your Lordship in our last Despatch.

This result is the same as that in all similar Cases, namely, that the examination of the Log-book afforded no ground whatever for supposing that the Vessel had been engaged in the Slave-trade.

The Captain of the Brig "*Gallo*," when he produced his Log-books, presented also a Certificate, which he had received from Captain Arabin, of His Majesty's Ship "*North Star*," on the Coast of Africa, stating that that Brig was not guilty of an act of Piracy, on suspicion of having committed which she had been detained by the "*North Star*."

This Document was forwarded to us in the Governor's Note. It proves clearly that the "*Gallo*," which had cleared out from hence for Princes Island, had been actually on the Coast of Africa; and it is obviously the merest trifling with His Majesty's Government, if the Authorities here profess to be satisfied, by the examination of the Log-book alone, that this Vessel, well armed, and with a Crew of 49 Men, was there for the purposes of lawful commerce.

(Signed) HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
    &c.                      &c.                      &c.

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Enclosure in No. 74.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

*Havana January 14, 1828.*

UNDER date the 12th Instant, the Second in Command of the Naval Forces on this Station writes to me as follows:—

"Most Excellent Sir,—Having required a Report from the Commandant of "*Matriculas*" respecting the Spanish Brig "*Gallo*," in conformity with your Excellency's Official Letter of the 8th Instant, and the Translation enclosed in it of that of the British Commissioners, dated the preceding day; he has made it in the following terms:—

"Having examined the Log-books of the Spanish Merchant Brig "*Gallo*," concerning which these proceedings have been formed, it does not appear from them that there is any reason whatever for supposing that the commercial adventure of that Vessel has had any connexion with the prohibited Slave-trade. I must add, as it may be of some importance, that the Captain of the said Brig "*Gallo*," has presented to me a Certificate, which was given to him by the Commandant of the British Frigate "*North Star*," translated into our language, the tenour of which is that of the enclosed Copy, which I also forward to you, in order that you may make whatever use of it you think proper. And this is all I have to report in consequence of your preceding Decree.

'*Habana, 12th January 1828.*'

(Signed). 'JOSE ALCALA.'

"And I transmit the above to your Excellency in reply, and for whatever purpose you may judge necessary, enclosing also a Copy of the Document there alluded to, in case it may be of any service."

All which I communicate to you, forwarding also a Copy of the Document before referred to, in continuation of my reply upon the subject, of the 8th Instant.

God preserve you many Years.

*His Britannick Majesty's Commissioners.*

(Signed)

FRANCO. DIONO. VIVES.

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Sub-Enclosure in No. 74.

(Translation.)

*Certificate given by Captain Arabin to the Captain of the "Gallo."*

I CERTIFY to all whom it may concern, that, having been informed that an armed Brig which had been in the Roadsted of Mesurado, where she had plundered, some Months ago, 2 American

Vessels, was at present cruising upon these Coasts, I proceeded instantly in pursuit of the said Pirate; on the 1st of November I fell in with, and detained, the *Spanish Brig "Gallo,"* after having chased her a long time in my Boats, during a calm. The said Brig is commanded by Don Ramon Gonzalez, is of 191 tons burthen, with ports for 16 guns, of which she has only 8 mounted; she is provided with musquetry and small arms, and has a Crew of 49 Men, including the Officers. I then proceeded with the said Brig to Cape Mesurado, to ascertain whether that Vessel, or any of the Crew, could be proved to have had any participation in the aforesaid act of Piracy; and the Agent of the *United States*, who was there, having been satisfied, as well as myself, that the Brig "*Gallo*" was not the Vessel that committed the Piracy in question, neither was any one of the Crew discovered to have been accessory to it; under this date I have again given the said Vessel in charge to her lawful Owner, in order that he may continue his intended Voyage.—Given on board of His Britannick Majesty's Ship "*North Star*," in the Roadsted of Mesurado, on the 16th of November 1827.

(Signed)

SEPTIMIUS ARABIN, Commander.

## No. 75.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 26.)*

(Extract.)

Havana, January 20, 1828.

IN reference to the Despatch of the late Mr. Secretary Canning, of the 26th February 1827, containing Instructions on the question of the alleged necessity that the Commander of a Capturing Vessel should be present, at the adjudication of each Vessel which he may have detained for illegal Slave-trade; We beg to state to your Lordship that, when that Despatch was received, it appeared to us that it would be the better way to wait till a case should occur for carrying practically into effect those Instructions, and that there would then be less likelihood of a diversity of opinion among the Members of the Court, than in a previous discussion upon the theoretical question.

There is another point of considerable importance connected with this question, which it is most expedient should be discussed, and finally arranged before a Case for its application shall actually occur. It regards the manner in which the Court, in the event of a detained Vessel being sent here in charge of one of the Officers of the Capturing Vessel, without being accompanied by the Commander, is to be satisfied that the latter is duly provided with the Instructions, authorizing him to detain Vessels of either Nation engaged in the Slave-trade. It has hitherto been the practice to present those Instructions, when required, to the Court, with the Ship's Papers and other necessary Documents. Should this practice be continued, in cases where the Commander was not on the spot, it would of course be requisite to entrust those Instructions to the Officer placed in charge of the Prize; but there appears to be another unobjectionable mode of satisfying the Court on this point, namely, by an Official Communication to the latter of the names of all the Vessels, so authorized, which are cruising in these Seas.

When Vice-Admiral Fleeming was at this Port, in the Month of May 1827, at which time we were not yet in possession of Mr. Secretary Canning's Despatch before referred to, some private conversation passed between him and His Majesty's Commissary Judge upon this subject; in consequence of which, some time after his arrival at Jamaica, when apprized that we had received Instructions similar to those which had been transmitted to him from the Admiralty, he addressed an Official Letter to us, a Copy of which is enclosed; in which, in order to obviate the inconvenience attending the removal from His Majesty's Vessels of the Instructions, authorising them to detain Slave-vessels under the Spanish Flag, he transmitted a List of the Vessels under his command, which are provided with those Instructions, and expressed a hope that that Document would be deemed sufficient.

As this communication was made expressly for the information of the Mixed Commission, it did not appear to us proper to withhold it from our *Spanish* Colleagues, until a Case should occur when it would be actually

required. We therefore addressed to them a Note, transmitting the List sent by the Admiral, together with a Copy of his Letter; and, after pointing out the probability of Cases occurring, of Prizes being sent in here by the Commander of the Capturing Vessel, in charge of one of his Officers, we suggested to them that, in such Cases, the Admiral's List should be considered as sufficient Evidence that any Vessel named in it was duly provided with the necessary Instructions.

The *Spanish* Commissioners, in reply, without touching upon the subject of the Instructions, express their regret that they cannot consent to admit the principle, that detained Vessels may be sent in here for adjudication, without being accompanied by the Commander of the Capturing Ship; and they refer to the different Articles upon which they found their objection.

In our Answer, we have merely expressed our determination to submit the subject for the consideration of His Majesty's Government, in order that, by entering into some Arrangement with that of His Catholick Majesty, the inconveniences may be prevented, which would necessarily arise from a difference of opinion, upon so important a point, among the Members of this Mixed Commission.

This Correspondence is enclosed, together with a Copy of the Letter which we have addressed to Vice-Admiral Fleeming, in reply to his upon the present subject.

To entering into discussion with our *Spanish* Colleagues, upon the question of the necessity of the presence of the Commander of the Capturing Vessel with his Prize, there unfortunately occurs the insurmountable objection, that we are not ourselves agreed upon it; and as our opinions are essentially different, not only with respect to the construction of the Treaty, so far as regards the present Question, but also to that of the Instructions relating to the same, it is obvious that it would not only be unproductive of any advantage, but would be improper, that either of us should put forward his own opinion until its correctness be ascertained by a reference to His Majesty's Government.

The opinion of His Majesty's Commissary Judge is, that the Instructions contained in Mr. Secretary Canning's Despatch, before referred to, very clearly and explicitly, authorize the Mixed Commission to proceed to the adjudication of detained Vessels, sent in here in charge of one of the Officers of the Capturing Ship, and unaccompanied by the Commander, unless the Declaration on oath of the latter should, in the particular Case, be specially required; and that, independently of those Instructions, the Court would be fully warranted, by the fair construction of the Treaty, and other circumstances, to proceed to the adjudication in such Cases.

The opinion of His Majesty's Commissioner of Arbitration is, that the Treaty, repeatedly, and in the most express terms, enjoins the presence of the Commander of the Capturing Ship, and that Mr. Secretary Canning's Instructions by no means imply that his presence is not necessary; for that the only discretion left with the Court by them, or by the Article of the Regulations for the Mixed Commission, upon which those Instructions are founded, regards the necessity of the Commander making a Declaration on oath before the Court, but by no means that of his presence in this Port with his Prize.

We have the honour to enclose Statements of the grounds on which our respective opinions rest, in conformity to which Statements, until we shall receive further Instructions from your Lordship, we shall consider it to be our duty to act, in the performance of the duties respectively assigned to us by the Treaty, in the event of the occurrence of a practical Case involving the Question under discussion.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
    &c.      &c.      &c.

## First Enclosure (A.) in No. 75.

*Vice Admiral Fleeming to the British Commissioners.*

GENTLEMEN,

"Magnificent," Port Royal, Jamaica, October 26, 1827.

WITH a view to obviate the inconvenience attending the removal from His Majesty's Ships and Vessels under my orders, of the Instructions by which they are authorised to detain Vessels under the Spanish Flag, suspected of trafficking in Slaves, for the purpose of being produced on the occasion of a Capture being made; I do myself the honour to enclose, for the information of the Commission, a List of the Vessels on this Station that are provided with the Instructions alluded to, with the names of their Commanders; which I hope will be deemed a sufficient Document.

I have, &amp;c.

His Majesty's Commissioners.

(Signed)

C. E. FLEEMING, Vice-Admiral  
and Commander-in-Chief.

## First Enclosure (B.) in No. 75.

*List of Vessels employed in the West Indies, under the Command of Vice Admiral the Honourable Charles Fleeming, that are furnished with Instructions authorising the search and detention of Vessels under the Spanish Flag, suspected of trafficking in Slaves.*

"Magnificent," Port Royal, Jamaica, October 26, 1827.

Vessels' Names.	Commanders.	Guns.	Men.
Barham . . . . .	Sir John Louis, Bart. . . . .	50	500
Aurora. . . . .	Charles John Austen, Esq. . . . .	46	280
Druid . . . . .	Samuel Chambers, Esq. . . . .	46	280
Valorous . . . . .	The Right Hon. the Earl of Huntingdon. . . . .	26	140
Slaney. . . . .	James Campbell, Esq. . . . .	20	120
Arachne. . . . .	W. R. A. Pettman, Esq. . . . .	18	120
Espiegle . . . . .	William Sandom, Esq. . . . .	18	120
Fairy . . . . .	G. W. C. Courtenay, Esq. . . . .	10	90
Harlequin. . . . .	Charles Elliott, Esq. . . . .	18	120
Scylla . . . . .	William Hobson, Esq. . . . .	18	120
Pylades . . . . .	George Vernon Jackson, Esq. . . . .	18	120
Beaver . . . . .	Joseph O'Brien, Esq. . . . .	10	90
Ferret . . . . .	Henry Gosset, Esq. . . . .	10	90
Bustard . . . . .	George Sidney Smyth, Esq. . . . .	10	90
Pincher . . . . .	Lieutenant Richard Fegan . . . . .	5	40
Skipjack . . . . .	Lieutenant James Pulling . . . . .	"	"
Union. . . . .	Lieutenant Charles C. Dart . . . . .	"	35
Speedwell. . . . .	Lieutenant Justus Oxenham . . . . .	"	35
Nimble . . . . .	Lieutenant Edward Holland . . . . .	"	45
Pickle. . . . .	Lieutenant John Walker . . . . .	"	40
Monkey. . . . .	Lieutenant J. B. L. Hay . . . . .	"	35

(Signed)

C. E. FLEEMING, Vice Admiral

Second Enclosure in No. 75.

(Translation.)

*The British Commissioners to the Spanish Commissioners.*

GENTLEMEN,

Havana, December 21, 1827.

IT may, in many cases of detention of Slave-vessels by British Cruizers, prove injurious to His Majesty's Service, for the latter to leave the particular Station upon which they are ordered to cruize, by accompanying their Prize to this Port, for adjudication. The Commanders of those Vessels have accordingly been directed, in such cases, to send in the Prize under the charge of one of their Officers, unless when circumstances shall appear to render their own presence absolutely necessary to the condemnation.

In the consideration of this subject, a question has arisen, as to the most expedient manner of satisfying the Court of Mixed Commission that the Captor is duly provided with the Instructions pointed out by Treaty, which authorize him to detain Vessels under the *Spanish* Flag suspected of trafficking in Slaves.

It has hitherto been the practice for the Commanding Officer to present those Instructions to the Court, if required, at the time of making his Affidavit. But as, in the Case here referred to, he would not himself be present, it would be necessary, in order to their being presented to the Court, that they should be intrusted to the Officer placed in charge of the Prize, and thus be removed from the Vessel to which they belong.

It is the opinion of the Commander-in-Chief of His Britannick Majesty's Naval Forces on the Jamaica Station, that considerable inconvenience might arise from this arrangement; to obviate which, he has communicated to us, for the information of the Mixed Commission, a List of the Vessels under his orders, which are provided with the Instructions; and he trusts that this Document will be considered by the Court to be sufficient Evidence to that fact.

We have the honour to enclose a Translation of the Official Letter which Admiral Fleeming has addressed to us upon this subject, together with the original List, signed by him, of the Names of the Vessels under his command, which, he certifies, are duly provided with the Instructions authorizing them to detain Slave-vessels under the *Spanish* Flag.

We confidently trust that you will agree with us, that this Communication, with the accompanying List, will be sufficient Evidence, that the Vessels therein mentioned are duly provided with the Instructions, in the case before referred to, namely, that of the Capture by any of them of a *Spanish* Slave-vessel, and of the arrival here of the Prize, in charge of one of the Officers of the Cruizer: it being well understood that the Commanding Officer is, at the same time, to forward the written Declaration, and to perform all the other formalities required by Treaty.

We have the honour to be, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.*The Spanish Commissioners.*

Third Enclosure in No. 75.

(Translation.)

*The Spanish Commissioners to the British Commissioners.*

GENTLEMEN,

Havana, January 10, 1828.

WE have maturely considered your Letter of the 21st Ultimo, referring to one from the Commander-in-Chief of His Britannick Majesty's Naval Forces on the Jamaica Station, of which you enclose a Copy, together with a List of the Vessels which are under his orders, and which are provided with the necessary Instructions for detaining Slave-vessels: the object being, that these Vessels may not have to leave their Cruizing Stations, to the prejudice of His Britannick Majesty's Service, and that they may be enabled to send their Prizes in charge of one of the Officers. We have likewise examined, with due attention, the 9th and 11th Articles of the Treaty for preventing the illicit traffick in Slaves, concluded between Their Catholic and Britannick Majesties, at Madrid, on the 23d September 1817; also the 1st and 6th Articles of the Instructions for Spanish and English Vessels of War employed for this purpose; and the 1st, 2d, 3d, 5th, 6th, and 8th Articles of the Regulations for the Mixed Commissions; and we have met with difficulties which prevent us from acceding to the proposed measure; looking as we do to the peculiar Cases in which may be involved personal acts to be performed by the Captor before the Commission, so that we may be able to adjudge and give sentence without injustice; the more particularly in Cases like those that admit of no appeal; and considering also where it is said, in Article 11 of the Treaty, "The Two High Contracting Parties reserve the faculty of altering the said Instructions, in whole or in part, according to circumstances; it being, however, well understood that the said alterations cannot take place but by common agreement, and by the consent of the Two High Contracting Parties." So that neither is it matter for our cognizance and decision, nor is it within our powers, as marked out by the preceding Regulations, to remedy the abovementioned evils; of this we think you will be persuaded, as well as of our sincere regret at not being able to give a reply more in accordance with your request, and we hope that no alteration will be made in the order and practice that have hitherto been constantly observed.

God preserve you many Years.

(Signed)

CLAUDIO MARTINEZ DE PINILLOS.  
RAFAEL QUESADA.*The Commissioners of His Britannick Majesty.*

## Fourth Enclosure in No 75.

(Translation.)

*The British Commissioners to the Spanish Commissioners.*

GENTLEMEN,

Havana, January 14, 1828.

WE have the honour to acknowledge the receipt of your Letter of the 10th Instant, in answer to that which we addressed to you on the 21st Ultimo, in which you state your opinion, that, in the event of the detention of a Slave-vessel, it is absolutely necessary that the Commanding Officer of the Capturing Vessel should accompany the Prize to this Port, for adjudication, and not send her in charge of one of his Officers.

The separation of the Instructions from the Vessel to which they belong, would, of course, not be requisite, were she to accompany her Prize; and it is therefore unnecessary for the present to discuss the principal point to which our abovementioned Letter was directed, namely, to ascertain whether you would consider the Communication and List forwarded to us by Vice-Admiral Fleeming, sufficient Evidence that the Vessels named in the latter were provided with the proper Instructions, authorising them to detain Slave-vessels, in Cases in which those Instructions could not be presented to the Court.

We purpose to take an early opportunity of drawing the attention of His Majesty's Government to this subject, in order that, by entering into some Arrangement with the Government of His Catholick Majesty, the inconveniences may be prevented which would necessarily arise from a difference of opinion, upon so important a point, among the Members of this Mixed Commission.

We have, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.*The Spanish Commissioners.*

## Fifth Enclosure in No. 75.

*The British Commissioners to Vice Admiral Fleeming.*

SIR,

Havana, January 16, 1828.

IN reply to your Letter of the 26th of October 1827, in which you transmitted to us, for the information of the Mixed Commission, a List of His Majesty's Vessels under your command, which are authorized to detain Vessels under the Spanish Flag, suspected of trafficking in Slaves; we have the honour to inform you, that we communicated that List to His Catholick Majesty's Commissioners, and explained to them for what purpose it was intended, expressing at the same time a hope that they would consider it as sufficient Evidence that any Vessel named in it was duly provided with those Instructions, in the event of her Commander sending in here a detained Vessel for adjudication, in charge of one of his Officers, without accompanying her himself, and consequently without the Instructions being presented to the Court, as has hitherto been generally the practice.

The Spanish Commissioners in reply have stated, that they have not the power to consent to the establishment of the principle, that a detained Vessel may be sent in here for adjudication in charge of one of the Officers of the Capturing Vessel, without being accompanied by the Commander, and they express a hope that the practice which has been hitherto followed, may not be departed from.

We shall take the earliest opportunity of submitting the whole question for the consideration of His Majesty's Government, in order that, by entering into some Arrangement with that of His Catholick Majesty, the inconveniences may be prevented which must necessarily arise from a difference of opinion, upon so important a question, among the Members of this Mixed Commission.

We have the honour to be, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.*Vice Admiral The Hon. C. E. Fleeming.*

## Sixth Enclosure in No. 75.

*Opinion of the British Commissary Judge, on the Question of the alleged necessity of the presence of the Commanding Officer of the Capturing Vessel, at the adjudication of his Prize.*

THE circumstances which gave rise to the discussion upon this question are the following: Captain Austen, of His Majesty's Ship "Aurora," having reported to Vice Admiral Sir Lawrence Halsted an opinion which he stated that he had received from Mr. Macleay, then sole British Commissioner here, to the effect that, "unless a Slave-vessel was accompanied to the Havana by the Man-of-War who captured her, it would be impossible for him (Mr. Macleay) to proceed to her condemnation," the Vice Admiral referred the subject to the Lords of the Admiralty, in a Letter to their Secretary, in which he pointed out the evil consequences that would arise, from the adoption of the interpretation of the Article (the 3d of the Regulations for the Mixed Commissions) upon which Mr. Macleay was said to have founded his opinion, and requested that steps might be taken "for securing a just reading of that Article;" adding his opinion that the Prize might be proceeded against before the Mixed Commission Court, upon the Evidence of the Officer and others sent in charge of her. The question was referred by the Lords of the Admiralty for the opinion



of The King's and Admiralty's Advocates ; and, when that was received, all the Documents were submitted for the consideration of the late Mr. Secretary Canning.

With these before him, Mr. Canning instructed His Majesty's Commissioners in the following terms :—

" It appears that the Opinion given by Mr. Macleay upon this subject, was in principle correct. I think it right, at the same time, to point out to you, for your guidance, the last paragraph in the Opinion given upon this subject by His Majesty's Advocate-General and by the Advocate to the Admiralty

" You will there perceive, that the Declaration on oath of the Captain of the Capturing Vessel is not made necessary, in all Cases, to the adjudication of Vessels captured under the Treaties on Slave-trade, and that the want of that Declaration, therefore, will not invalidate the Capture, nor obstruct the Proceedings, unless the Declaration should, in the particular Case, be specially required."

In the opinion of His Majesty's Law Officers, they refer to the Articles which appear to imply the presence of the Commander of the Capturing Vessel with his Prize, and affirm that the word " Captor" appears to mean exclusively the Commander, wherever it occurs throughout the Treaty, and, consequently, in the 3d Article of the Regulations for the Mixed Commissions before mentioned, in which the Judges are desired to take Depositions of persons on board the detained Vessel, as well as the Declaration on oath of the *Captor*, should it appear necessary: they then proceed to the following paragraph, which is expressly referred to by Mr. Canning :

" We observe, however, that this Declaration on oath, is not made necessary, in all Cases, to the adjudication, but the Commissioners may proceed without it. The want of this Declaration therefore will not invalidate the Capture, neither will it obstruct the Proceedings, unless it should be specially required."

It appears to me, that both the Instructions and the Opinion, very clearly and explicitly authorise the Mixed Commission to proceed to the adjudication of detained Vessels, sent in here in charge of one of the Officers of the Capturing Vessel, and unaccompanied by the Commander, unless the Declaration on oath of the latter shall, in the particular Case, be specially required : and, consequently, that they cannot be considered as confirming the necessity of the presence of the Commander, in all Cases, and as leaving no other discretion with the Court, but that of calling upon him or not, (when present) for his Declaration on oath.

I conceive that the word, used both in the Instructions and the Opinion, " want of that Declaration," necessarily imply the absence of the Commander, who is to make it ; for otherwise how can it be said to be wanting ? If he be present I cannot see what possible objection he can have to make it, or what benefit would arise from the Court declining to receive it. Indeed I do not perceive, in the Treaty or the Instruments annexed to it, any end whatever, either expressed or implied, for requiring the presence of the Commander, but to make the Declaration in question.

As the Declaration, which is made at the time of presenting the Papers of the Prize, and the other proper Documents, to the Court, is in fact the foundation of all the Proceedings, it would appear that it should be made on oath, and accordingly so it is stated in our Form of Proceeding. But whether it be made by the Commander, or that he should have the power (being himself on the spot) to depute one of his Officers to make it for him, seems to me too unimportant a matter to require serious discussion ; and therefore I cannot imagine that Mr. Canning, or the Law Officers of the Crown, should have thought it necessary to give an unsolicited opinion upon it.

Again, the expression " nor will it, (the want of the Declaration) obstruct the proceedings," clearly indicates the absence of the Commander. For even supposing that, he being present, any question could seriously be raised, as to the expediency of his making the Declaration or not, a very few minutes would obviously be sufficient for the deliberation, and such a delay could never have been in contemplation, when the expression, " obstruct the Proceedings" was used. In fact nothing could obstruct them, thus at their very commencement, but the absence of the Commander, and the Court holding it necessary to wait till he should come, before entering into the merits of the Case, or even examining the Papers.

A specifick question was submitted for consideration, with a specifick object in view ; and I conceive that it is with reference to that question and object, that the Instructions and the Opinion ought naturally to be understood throughout. So it is according to my interpretation. They confirm in the first instance the correctness, *in principle*, of the position originally laid down upon the subject by Mr. Macleay, and then proceed to point out where, *in practice*, it may be modified. Thus they are clear and connected ; they bear throughout directly upon the question under discussion, and ultimately shew in what Cases the object in view may be attained. Whereas, according to the other interpretation, after confirming the reading of the Treaty that was objected to, they turn aside to treat of another point, unimportant in itself, which was not submitted for consideration, and is quite irrelevant to the subject.

Upon the whole, a most attentive consideration of the Instructions and Opinion has only served to confirm me in the adoption of what appeared to me their plain and obvious meaning, when I first perused them ; and I have the satisfaction of knowing that similar Instructions, received by the Commander in Chief of His Majesty's Naval Forces on the Jamaica Station, have been interpreted by him in the same manner.

But, independently of these Instructions of the Secretary of State, I am of opinion that the Courts of Mixed Commission would be warranted, by the fair and general construction of the Treaty, as it ought to be, and has actually been acted upon, to proceed to the adjudication of a Vessel sent in by the Commander of the Capturing Ship in charge of one of his Officers.

The great and declared object of the Treaty is to prevent the Subjects of the Two High Contracting Parties from engaging in illicit Slave-trade, [Article 5.] and for this purpose the unusual and important concession of the right of search in time of Peace was made, to be exercised only by Ships-of-War of either Nation, provided with certain Instructions [Article 9] ; having which, they are authorised to detain *British* or *Spanish* Vessels actually engaged in that traffick [Article 10] ; and Mixed Commissions were instituted for the adjudication of such Vessels. [Article 12.]

These are the great and essential Stipulations, and they are all referred to in the body of the Treaty itself.

There are besides several points, manifestly of less importance, which are treated of in the Instruments annexed to the Treaty. They principally relate to certain rules and formalities to be observed by *Spanish Merchant Vessels* engaged in the Slave-trade, (while that was lawful) and in the conveyance of Slaves, and by the *Ships-of-War* of both Nations, authorised to detain *Slave-vessels*. I am of opinion that the non-observance of those rules and formalities does not necessarily, on the one hand, warrant the condemnation of the Vessel, and on the other, invalidate the Capture, but that the Courts of Mixed Commission have a discretionary power with regard to them.

I think that the Courts have this power, because, from the nature of those rules and formalities, some of them being of very little importance, it would be almost absurd to suppose that they have it not: because the Court established here has actually exercised it in several Cases; in none of which has the decision been called in question by either Government, and in one it has been expressly sanctioned by that of His Majesty; and lastly, because the consequence of their not having that power would be, that it would lead to Decisions directly contrary to the object, and at variance with the spirit, of the Treaty.

It is expressly stipulated, that so long as the traffick was lawful for them, every *Spanish Slave-vessel* should be commanded by a Native *Spaniard*, and that *two-thirds at least* of the Crew should be *Spaniards* [Article 4 of Instructions for Ships-of-War.] If, during that period, a detention had been made, on the ground that 1 *Spaniard* was wanting to make up the two-thirds of the Crew, ought the Vessel to have been condemned? The Case cannot now occur, but I am strongly inclined to think that she ought not. It is directed, positively, that no conveyance of Slaves from one Port in the *Spanish Dominions* to another shall take place, except in Vessels *provided with Passports* from the Government on the spot, *ad hoc* [Article 7 of Instructions], and, if they be not so provided, is that a sufficient ground for condemnation? It has been decided that it is not. It is stipulated that, in case of seach, it shall be done in the *most mild manner*; and that in no case shall it be made by an *Officer inferior to a certain rank* [Article 5 of Instructions]. I ask, if it be not done in a mild manner, or if the Officer be of inferior rank to that specified, is the Capture thereby invalidated? I think, certainly not; and so in like manner I should decide were there to be a failure on the part of the Captor in complying with the various minute details contained in other Articles. [Article 6 of Instructions, and Article 5 of Regulations, for the Mixed Commissions]

It may be said that some of those rules and formalities are so evidently not of essential importance, that they do not deserve serious consideration. That will be sufficient for me. I only want to establish that there are Stipulations contained in the Instruments annexed to the Treaty, respecting which the Courts must have a discretionary power, and are not absolutely bound to inflict upon those who neglect to observe them, the same penalties as for a non-compliance with the most essential provisions of the Treaty.

The Mixed Commission established here has actually exercised this discretionary power in several Cases. In that of the "*Relampago*,"\* the Capturing Vessel (the Schooner "*Lion*") was not provided with the Instructions required by Treaty, which alone could authorise a *British Vessel-of-War* to visit and detain a *Spanish Merchant Vessel*; the Commander, however, declared that his Schooner was acting as Tender to a *Sloop-of-War*, which was duly provided with those Instructions; and the Court made no objection to consider the Tender as the Sloop herself, notwithstanding the precise words of the Treaty upon this most important point, by which *those only* of the *Vessels-of-War*, which are provided with the Special Instructions, are authorized to visit and detain Merchant-vessels, [Article 9 of Treaty;] indeed, if this Case be strictly considered, it may fairly be said to be completely in point in the present discussion; the real Captor being the Commander of the Sloop-of-War, and the Lieutenant commanding the Schooner being in fact merely the Officer in charge of the Prize; yet did it never for a moment occur to the Court to require the presence of the former. In the Cases of the "*Isabel* †," and "*Nuevo Campeador* ‡" the *Spanish Captain* escaped from the Captors, and in that of the "*Magico* §," not only the Captain but the whole of the Crew. It is expressly stipulated that the Judges shall receive the Depositions on oath of the *Captain* and of 2 or 3 at least of the principal Individuals of the detained Vessel. [Article 3 of Regulations.] Here then, if the strict letter were to be our only guide, was a sufficient motive, certainly, for delay, particularly in the Case of the "*Magico*." It was known that the Captains were actually in the Island,—they might be supposed, in theory at least, to have something to allege in their defence; and for escaping from the Cruizers they had the common pretext, that they took them for Independent Privateers, who are constantly in the habit of using the *British Flag*. The Court, however, proceeding according to their practice, as is stated in one of the Sentences ||, briefly and summarily, *verdad subida y buena fé guardada*, (this being the *Spanish* legal phrase, signifying that a Cause should be decided according to its true merits, without attending to mere technical formalities,) and having ascertained that the Vessels were *Spanish*, the Captains of which would consequently never venture publicly to present themselves here, being liable to severe punishment by their own Laws, did not delay one hour, on account of the formality prescribed not having been complied with; but, attentive to the spirit of the Treaty alone, immediately proceeded to the adjudication. In the Case of the "*Mexicano* ¶," which was detained for conveying Slaves from one Port in the *Spanish Possessions* to another, without a Passport, *ad hoc*, the Court again assumed the discretionary power of deciding, that the non performance of that Stipulation should not be followed by condemnation; and this Decision was subsequently sanctioned by His Majesty's Government.

Let us now see what would be the consequence, if the Courts of Mixed Commission did not possess this discretionary power; here it may be said, that, in the event of any of those formalities being neglected, no evil effects, at least in theory, would follow, as, if the Vessel were *Spanish*, she

\* See Class A. 1824-25, No. 94.—† See Class A. 1825-26, No. 62.—‡ See Class A. 1826-27, No. 90.—§ See Class A. 1826-27, No. 63.—|| See Class A. 1826-27, No. 63, Incl. 3.—¶ See Class A. 1826-27, No. 89.

might be delivered up to the Authorities of the Country, who, we are bound to suppose, would put into execution the existing Laws against her, and there is no probability whatever of a *British* Slave-vessel being captured; but at Sierra Leone, and we cannot suppose a different interpretation of the Treaty at the different Settlements, if a *Spanish* Slave-vessel should appear to have been searched in too rough a manner,—if the Officer who searched her should be a Midshipman instead of a Lieutenant,—if the Commander of the Capturing Vessel should omit in his Declaration to specify exactly what is required of him,—should not give the Master of the Slave-ship a Certificate of the Papers seized on board,—should not mention in it the exact number of Slaves found on board,—or in short, should neglect any one, the most trifling, of the formalities pointed out for his observance,—the Mixed Commission would, if they did not exercise this discretionary power, be bound to give up the Vessel to the *Spanish* Captain, although aware that the latter would instantly proceed to a Place where he could dispose of his Cargo. Thus the great and acknowledged Delinquent, who has not a word to say in his defence, would be the only gainer, and the unhappy Negroes would be condemned to certain slavery, in consequence of an informality, if not unimportant, at least of no essential importance.

I cannot believe that to be the spirit of the Treaty, [Article 1 of Regulations] and being bound to judge according to its letter and spirit, when I find them at variance, I shall ever decide for the spirit.

It may be objected that these Rules and Formalities are then utterly useless, as they may be neglected with impunity; to this I reply that there are Stipulations which appear perfectly to apply to this difficulty, and that if it be a *Spanish* Merchant Vessel which fails to perform them, she may be denounced in the *Spanish* Tribunals, [Article 3 of Regulations,] and if it be a Cruiser, the conduct of the Commander may be made the subject of complaint to his Government, who are bound to inflict on him, if he shall have deserved it, a punishment proportioned to the transgression [Article 12 of Regulations.]

It may be also objected, that discretionary powers are ever dangerous, and that, if once tolerated, it is not easy to draw the line, and ascertain what is essential and what not. To this I answer, that the consequences that may arise from the non-existence of the discretionary power, with regard to our Treaty, are beyond all comparison, more injurious than those that can arise from its existence; and that, if pressed to draw a line, I should frankly say, that, provided the essential conditions laid down in the body of the Treaty be complied with, that is, if the Vessel shall be *fairly captured by a Cruiser duly authorized*, and shall be proved to belong to *one or other Nation*, and to have been *actually engaged* in the Slave-trade, I think she must be condemned, and the Slaves on board, if any, emancipated.

Applying the question under discussion to the principle which I have attempted to establish, I am of opinion that the Mixed Commissions have a discretionary power, to require, or not, the presence of the Commander of the Capturing Vessel at the adjudication of his Prize. In point of fact, there is not one of the formalities to which I have before alluded, the performance of which is of less essential importance than this Declaration on oath, for which alone his presence can be wanted. It is merely a formal presentation to the Court of the Papers of the Vessel, and the other Documents required, and, but in one Case, of those decided by this Mixed Commission, viz, that of the "*Magico*," the Master and the whole of the Crew of which had escaped, has it been thought necessary to require the Commander to appear for any other purpose. I can see no possible objection to those Papers and Documents being presented by one of his Officers; and it is obvious that much expence and inconvenience must be occasioned, should he not accompany his Prize, by waiting for him to perform that mere formality in person, without the possibility of an advantage thereby arising to any party whatever.

But, granting that I have failed in establishing that the Mixed Commissions have this general discretionary power, I conceive that, so far as regards the present question, it is specially conceded. It is true, that, in more places than one, in the Instruments annexed to the Treaty, the presence of the Captor with his Prize appears to be implied, but no where is there specified any other purpose for requiring his presence, but that of making his Declaration on oath before the Court, and upon that point a discretionary power is expressly granted by the 3d Article of the Regulations for the Mixed Commissions.

This is a very material Article, being that which points out the form of process for the Mixed Commissions; it directs as follows:—"The Commissary Judges of the two Nations shall, in the first place, proceed to the examination of the Papers of the Vessel, and to receive the Depositions upon oath of the Captain, and of 2 or 3 at least of the principal Individuals on board of the detained Vessel, *as well as the Declaration on oath of the Captor, should it appear necessary.*"

I have already stated, that, throughout the whole Treaty and Instruments annexed to it, I can perceive no other object, either expressed or implied, for requiring the presence of the Captor with his Prize, but to make his Declaration on oath before the Court. But the expression used in the above Article "*should it (the Declaration) appear necessary,*" evidently implies that it may not be so in some Cases; consequently in such Cases his presence is not necessary, and the Court may proceed to adjudication without it.

This conclusion appears to me to be undeniable, but perhaps it may be made more evident by an example of what would be the consequence if it be not admitted.

Suppose a *Spanish* Vessel with a Cargo of Slaves, sent in here for adjudication, in charge of one of the Officers of the Capturing Vessel. The latter presents himself to the Mixed Commission with the Papers. The Court calls for the Commanding Officer. It is alleged, that, upon examining the Papers of the detained Vessel, and the other Documents in the possession of the Prize Officer, and upon receiving his Declaration upon oath, it will be found that the Declaration upon oath of the Commander, and consequently his presence, is not necessary. The Court insists, and, after great delay, expence, and inconvenience, the Commander at length arrives, and may then be told that his Declaration on oath may be dispensed with, and consequently that his presence is not required!

It is objected that, according to my reading, the Captor must be himself the judge of the necessity of his accompanying his Prize. I confess I see no objection to that. He is himself the

only party that can suffer by his absence. He is in possession of the Treaty, which is a very simple Document and easily understood; and the knowledge that either his Government or himself, will naturally be made responsible for the expences occasioned by the delay, should his presence be ultimately required, will be a sufficient check against his using this discretionary power in doubtful Cases. Besides, if he is not to judge of the necessity, the consequence will be, that he must come, in order to ascertain whether his presence is required! If that be the true reading, it is obvious that the words "should it appear necessary" had much better have been omitted altogether; for they are not merely useless, their only effect can be to mislead.

But this is not the first occasion on which the present question has been treated of. The case appears to have been contemplated and provided for, from the first establishment of the Mixed Commissions. In the Form of Proceeding drawn up for their use, it is expressly stated, after the insertion of a Form of Affidavit, to be made by the Captor at the time of presenting the Ship's Papers, which has been adopted here, and is in fact the Declaration on oath of which we have been treating, that "it is not absolutely necessary that the Affidavit should be made by the Commander of the Capturing Ship, the Officer in charge of the Ship captured is equally competent thereto." \* Here then the question appears to be decided, so far at least as this Document goes; and it cannot, I think, be denied that it is entitled to great weight, when it is recollected that it was drawn up under the superintendence of Sir William Scott, (now Lord Stowell) and recommended by His Majesty's Government to that of Spain; that it was approved in the most marked terms by the latter, and directed to be adopted here; † and that it was consequently translated by a Legal Interpreter, and has for years served as the basis for the Form of Proceeding of this Mixed Commission, without any objection having ever been started to any part of it.

It is true, that, in the paragraph which I have quoted, the words *in the absence of the Captor* are not inserted, but I conceive them to be as clearly understood as if they were. If the Commander accompany his Prize, it can scarcely be said that another is *in charge* of her. Again, supposing the absence of the Commander, the paragraph is most important and productive of many practical advantages; while, if he be supposed present, it seems to me to be altogether useless, and had much better have been omitted, as it may well mislead. I cannot agree that the object was to provide for the case of the Commander being unable to present himself to the Court, from illness, for then, as in the case of his death, his proper substitute would undoubtedly be the Officer next in command.

In all probability, it was in consequence of this paragraph in the Form of Proceeding, that the Mixed Commission Court at Sierra Leone has been in the constant habit, almost ever since its establishment, of proceeding, without difficulty or hesitation, to the adjudication of Vessels, sent in by the Commanders of Capturing Ships, in charge of one of their Officers. I do not mean to assert that the decisions of one Mixed Commission Court are, necessarily, to bind the others; but I think that, in doubtful Cases, they ought to have considerable weight; particularly those of the Court at Sierra Leone, which has been the most efficient of all, and the proceedings of which have always been closely observed by His Majesty's Government.

I have thus endeavoured to shew, that the opinion which I have given, namely, that the Mixed Commission Courts may proceed to the adjudication of a detained Vessel, without the presence of the Commander of the Capturing Ship, unless his Declaration on oath be specially required, is clearly authorised by the Instructions of the Secretary of State; that it is borne out by the general and practised construction of the Treaty; and expressly by one particular Stipulation; that it is warranted by a Clause in our Form of Proceeding, directly applicable to the question; and finally, that it is conformable to the constant practice of the most efficient of the Mixed Commission Courts.

I readily admit, that, in the consideration of the present question, I have ever felt an anxious desire to be enabled, conscientiously, to come to the decision which I have taken, because the great ends of the Treaty are thereby promoted, without the slightest injury being occasioned to any party whatever; while the only effect of the contrary decision must be, to produce unnecessary delay, expence, and inconvenience, which can be productive of advantage to none. But I confidently trust, that it will be seen that I have not allowed my judgment to be unduly biassed by that desire, and that the decision which I have taken rests upon sufficient grounds.

According to that decision I shall consider it my duty to act, and to set forth those grounds, should any Case, involving the present question, be brought before me in my judicial capacity, before I receive further Instructions from His Majesty's Government upon the subject.

Havana, January 29, 1828.

(Signed) HENRY T. KILBEE.

\* See Class A. 1821, Incl. in No. 7.—† See Class B. 1821, Nos. 46, 145.

#### Seventh Enclosure in No. 75.

#### *Opinion of the British Commissioner of Arbitration, on the Question of the alleged necessity of the presence of the Commanding Officer of the Capturing Vessel, at the adjudication of his Prize.*

AN Application having been made, on the part of Admiral Fleeming, to the Mixed Commission, requesting that certain Vessels, enumerated by him in a List, might be considered as legally provided with the necessary Instructions for capturing Slave-vessels, without any farther necessity of producing the said Instructions before the Court, the Commissioners of His Catholick Majesty, in answer to this Application, have, in their Letter of the 10th Instant, stated, that according to the whole tenour of the Treaty, and its Appendages, it appears to them to be expressly enjoined, that the Commander of the Capturing Vessel shall, himself, bring his Prize before the Court. On this last head, I feel myself bound to coincide in opinion with the Spanish Commissioners, and to declare that, both the spirit and the letter of the Treaty, as well as the Instructions which, on this

subject, His Majesty's Commissioners have had the honour of receiving from the late Mr. Secretary Canning, seem to me all to concur towards the same end.

Indeed I have long since taken this view of the question, and, as far as lay within my province, have endeavoured to promulgate it among the Officers of His Majesty's Navy, in order to prevent the inconveniences likely to result from their giving a different interpretation to the Instructions.

When Captain Austen, of His Majesty's Ship "Aurora," was at Havana, in October 1826, in the course of private conversation, he asked me, (at that time the sole British Commissioner on the spot,) my opinion on this particular subject; and I then stated to him, not only that the Treaty stipulated for the presence of the Commander of the Capturing Vessel, but that, moreover, very great inconvenience and disadvantage must arise from this Stipulation not being strictly attended to.

My opinion, as I then pointed out to him, was grounded on the following words of the Treaty and its Appendages. [Treaty, Article IX.] "The Two High Contracting Parties mutually consent that the Ships of War of their Royal Navies, which shall be provided with Special Instructions for this purpose, may visit such Merchant Vessels of the two Nations as may be suspected, and in the event of their finding Slaves on board, may detain and bring away, such Vessels, in order that they may be brought to trial," &c. [Instructions, Article I.] "In these Cases, alone, the Commander of the Ship of War, may detain them, (i. e. Slave-vessels,) and having detained, he is to bring them, as soon as possible, for judgment, before that of the two Commissions, which shall be the nearest, or which the Commander of the Capturing Ship shall, upon his own responsibility, think he can soonest reach," [Regulations, Article III.] "The Commissary Judges of the two Nations shall, in the first place, proceed to the examination of the Papers of the Vessel, and to receive the Declaration on oath of the Captor, should it appear necessary." [Id. Article V.] "In the authenticated Declaration which the Captor shall make before the Commission, the above-mentioned Captor shall be bound to declare his name," &c. &c.

Such are the very explicit Articles by which, as I informed Captain Austen, I thought the presence of the Commanding Officer was enjoined, and I farther stated to him, that, throughout the whole of the Treaty, with its annexed Instructions and Regulations, I could find no one paragraph, or even expression, that in any way tended to support a contrary opinion. Accordingly, on his return to Jamaica, Captain Austen, as it has since appeared, explained my view of the subject to Vice-Admiral Sir Lawrence Halsted, then Commander-in-Chief on the Jamaica Station. The Admiral, conceiving that such an opinion might be inconvenient to His Majesty's Naval Service, lost no time in laying it before the Lords Commissioners of the Admiralty, by which means it soon came under the cognizance of the Law Officers of the Crown. His Majesty's Principal Secretary of State for Foreign Affairs has subsequently transmitted to the Havana, for the information and guidance of His Majesty's Commissioners, the sentiments entertained on this question by the above distinguished persons, and thus the correctness of the view I had taken of the Treaty has been fully confirmed.

His Majesty's Law Officers, after recapitulating the Articles upon which my opinion was originally founded, define the expression "Captor," as used in the Treaty, to signify the Captain, or Commanding Officer of the Capturing Ship. They also call particular attention to the 3d Article of the Regulations, which says, "The Commissary Judges of the two Nations shall receive the Declaration on oath of the Captor, should it appear necessary;" and, on this head, they observe, that the want of the Declaration on oath will not necessarily invalidate the Capture, neither will it obstruct the Proceedings, unless it should be specially required. This remark, indeed, bears directly on the question under discussion, and were every other argument wanting, will, of itself, sufficiently prove the presence of the Captain, with his Prize, to be absolutely necessary; for, if it could for a moment be supposed, that, in contradiction to the 1st Article of the Instructions, it remains entirely at the option of the Captor, either to bring in his Prize before the Court, or to send an inferior Officer in with her, the gross inconsistency immediately arises, that he, the Captor, a party interested in the Cause, and not the Mixed Commission, becomes the judge, as to whether an Affidavit is to be required of him or not. This Declaration upon oath of the Captor has, in all the Cases hitherto brought before the Commission, been uniformly taken. It is a presentation to the Court of the Papers of the Prize; and an attestation that they have undergone no alteration, while in his possession. It is true, indeed, that this Declaration upon oath is not necessary, unless specially required, but this provision of the Treaty cannot, by any construction, mean that the Captor may absent himself at will, but only that the Commissioners may, or may not, require his oath, as from the peculiar circumstances of the case they shall think fit.

In the Form of Proceedings drawn up for these various Commissions by His Majesty's Government, and subsequently approved of by that of His Catholic Majesty, there is a paragraph that has been conceived to have a different import, although it was scarcely, perhaps, to have been imagined that this Form could be at direct variance with the Treaty. The Passage is as follows:—"It is not absolutely necessary that the Affidavit should be made by the Commander of the Capturing Ship, the Officer in charge of the Ship captured being equally competent thereto." But this short paragraph is, as might have been expected, perfectly consonant with the letter and spirit of the Treaty, nor does it, in the least, conflict with those Articles that expressly enjoin the Captor himself to bring in his Prize, and to make a Declaration to the Court. It merely states, that his Declaration upon oath is not necessary in all Cases, provided its place be supplied by the Affidavit of the Officer in charge of the captured Ship. The words are, apparently, intended to meet the possible case, of the Commander being unable from sickness to attend the Court; and this effect they answer completely.

Undoubtedly if, while this question remains *coram judice*, a Slave-vessel should happen to arrive here, without being accompanied by the Captor, my opinion would be, that there had been on his part an infraction of the Treaty; but if, from the nature of the particular Case, it should appear that the presence of the Captor was not specially required, it would be too much to say that I would not feel it my duty to make this the ground of argument with the Spanish Commis-

sioners, and, so far as I am individually concerned, to proceed forthwith to the adjudication. But I shall now for a moment suppose, that it is ultimately ruled by His Majesty's Government, that the Captor has the discretionary power of absenting himself; and that, owing to the absence of 1 of the *British* Commissioners, the Court consists, as has often already happened, of 1 *British* and 2 *Spanish* Commissioners. I shall suppose, moreover, that the 2 latter, agreeably to the terms of their Letter just received, shall, in some Case of a Prize arriving without being accompanied by the Capturing Vessel, decide that the Declaration upon oath of the Captain is necessary; it is most obvious that the rule entirely depends upon their will, and that, either for want of evidence, specially required by the majority of the Court, the guilty Vessel must be liberated, or that she must be detained until the Captor can be fetched, from perhaps the farthest limits of his Station; thus entailing great inconvenience on both Claimants and Captors, delay of emancipation on the poor Negroes, and incalculable expence on both Governments. I may here observe, that it appears to me according to the Treaty, that the authenticated Declaration of the Captor is always necessary, and that it remains with the Mixed Commission alone to decide whether it be requisite, according to the particular circumstances of the Case, to receive this Declaration upon oath, or whether it be sufficient to take only the oath of the Officer who may be in immediate charge of the Prize.

On the ground of humanity, indeed, which is the very spirit of this Treaty, there is another absolute necessity for those words of the 1st Article of the Instructions, which require "that the Commander of the Capturing Vessel shall bring in his Prize before that one of the Mixed Commissions, which he shall, upon his own responsibility, think he can soonest reach," being strictly complied with; for the 6th Article of the Instructions says, "If however, urgent motives, deduced from the length of the Voyage, the health of the Negroes, &c. require that they shall be disembarked entirely, or in part, before the Vessel can arrive at the Place of Residence of one of the said Commissions, the Commander of the Capturing Ship may take upon himself the responsibility of such disembarkation," &c. It appears therefore, that if, as in the Case of the "*Nuevo Campeador*" there should, from the wretched state of their health on the Voyage round to the Havana, occur a necessity for the disembarkation of the Negroes, any inferior Officer that might be in charge of the Prize would have no authority for such disembarkation, however urgently it might be required in order to save their lives.

It has been objected that Officers in command of His Majesty's Ships may be put to inconvenience, by being obliged to come to the Havana with their Prizes; but, however I must regret the existence of such a possibility, the strict observance of the Treaty ought, as I conceive, ever to be the paramount consideration with a *British* Commissioner. By Article XI. of Treaty, "no alteration can take place in it but by the consent of the High Contracting Parties;" and by Article XII. "the Commissioners are bound to judge according to the Regulations and Instructions annexed to the Treaty." The Mixed Commission established at the Havana has hitherto, in my opinion, made this XIIth Article the rule of their conduct; and, at all events, I have never, as a *British* Commissioner, been authorised to remedy inconveniences, at the expence of a Stipulation so explicit. The importance of good faith being apparent in all our endeavours to carry this Treaty into effect, is too obvious to need illustration, and Mr. Secretary Canning has, accordingly, more than once urged the danger of any *British* Commissioners assuming a discretionary power, in the interpretation of its Articles. In his Despatch to the Commissioners at Sierra Leone, dated 25th September 1822, relating to a Case where those Gentlemen endeavoured to obviate some similar inconveniences, he has given the following Instructions, viz:—"It was your particular duty, and I feel confident you will never again lose sight of it, to decide conscientiously according to the Treaty, and to rely on the wisdom of the Legislature to provide a remedy for the inconveniences that might result therefrom."

On the whole then, proceeding strictly according to the Instructions of His Majesty's Principal Secretary of State for Foreign Affairs, and of the Law Officers of the Crown, and in conformity with the letter and spirit of the Treaty; moreover bound as I am, by oath, to judge fairly and faithfully, to have no preference for either Claimants or Captors, and to act in all my decisions pursuant to the stipulations of the Treaty, I have no hesitation whatever in declaring, that I coincide with the *Spanish* Commissioners, in thinking, that the presence of the Commander of the Capturing Vessel with his Prize is absolutely enjoined, although his Affidavit need not be taken by the Mixed Commission unless specially required.

Havana, 20th January 1828.

(Signed) W. S. MACLEAY.

## No. 76.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 26.)*

MY LORD,

Havana, February 1, 1828.

SINCE the date of our Despatch of the 12th Ultimo, 2 *Spanish* Vessels have sailed for the Coast of Africa, viz.: the Schooner "*Transito*," Jozé Rodriguez, Master, and the Brig "*Vengador*," Jozé Garay, Master.

On the 18th Ultimo, the *Spanish* Brigantine "*Emprendedor*," arrived here on her return from that Coast, having previously landed a Cargo of Slaves in one of the Out-ports. We have the honour to enclose the Cor-

response which has passed between us and the Captain General respecting this Case. It is precisely to the same effect as that which we have so frequently had to submit to His Majesty's Government in similar Cases.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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First Enclosure in No. 76.

*The British Commissioners to the Captain General.*

Havana, January 19, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, in obedience to their Instructions, have the honour to inform His Excellency the Captain General, that they will have to report to His Majesty's Government, the arrival here Yesterday, as announced in the Diario of to day, of another of the Vessels which sailed last Year from this Port for the Coast of Africa, viz. the Brigantine "Emprendedor."

She entered this Port, as is usual in similar Cases, in ballast, but, as is matter of notoriety, had previously landed a Cargo of Slaves a little to the Westward of Havana.

The Undersigned avail themselves, &c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*His Excellency the Captain General.*

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Second Enclosure in No. 76.

(Translation.)

*The Captain General to The British Commissioners.*

GENTLEMEN,

Havana, January 22, 1828.

I HAVE received your Note of the 19th Instant, in which you inform me, that it will be your duty to report to your Government, the arrival at this Port of the Spanish Brig "Emprendedor," from the Coast of Africa; which you state was fitted out here, and sailed for that Coast last Year, and that previously to her arrival she had landed on the Coast of this Island a Cargo of Slaves.

Being duly apprised of all this, I inform you in reply that, in obedience to the Decree of the King, my August Sovereign, of the 2d January 1826, I have made the necessary Communication, under this day's date, to the Second in Command of the Naval Forces on this Station, in order that he may proceed to the proper investigation; of the result of which you shall be duly informed.

God preserve you many Years.

(Signed)

FRANCISCO D. VIVES.

*His Britannick Majesty's Commissioners.*

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Third Enclosure in No. 76.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, January 24, 1828.

UNDER date of Yesterday, the Second in Command of the Naval Forces on this Station writes to me as follows:—

"Most Excellent Sir,—Under date the 18th Instant, the Commandant of "Matriculas" has written to me as follows:—'Having examined the Log-books of the Spanish Brig "Emprendedor," which anchored in this Port Yesterday, having come from the Island of St. Thomas, it does not appear from them that this Mercantile expedition has been engaged in the prohibited traffick in Slaves, which I communicate to you in consequence of superior orders.' And I transmit the same to your Excellency, in reply to your Letter, dated Yesterday, upon this subject."

All this I communicate to you for your information, and in continuation of my reply, relating to this matter, of the 22d Instant.

God preserve you many Years.

(Signed)

FRANCISCO DIONISIO VIVES.

*His Britannick Majesty's Commissioners.*

## No. 77.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 26.)*

MY LORD,

Havana, February 11, 1828.

SINCE the date of our Despatch of the 1st Instant, 5 *Spanish Vessels*, the names of which are contained in the enclosed List, have sailed from this Port for the Coast of Africa.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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Enclosure in No. 77.

*List of Spanish Vessels that have sailed from the Port of Havana for the Coast of Africa.*

February 6.	Schooner	Primera Gallega,	- - -	Francisco Suarez,	- - -	Master.
" 10.	Brig	- Firme de Cadiz,	- - -	Juan Sandrino,	- - -	"
" 10.	Brig	- Gallo,	- - -	Ramon Gonzalez,	- - -	"
" 10.	Schooner	Dorotea,	- - -	Manuel Santiago Echavarria,	- - -	"
" 10.	Schooner	Xerxes,	- - -	Felipe Rebel,	- - -	"

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## No. 78.

*His Majesty's Commissioners to The Earl of Dudley.—(Received May 26.)*

MY LORD,

Havana, March 1, 1828.

SINCE the date of our Despatch of the 11th Ultimo, 1 *Spanish Vessel*, the Schooner "*Josefa*," Juan Casal, Master, has sailed for the Coast of Africa.

On the 15th Ultimo, the *Spanish Schooner* "*Primera*," which had sailed for that Coast on the 12th of September 1827, returned here in ballast, after landing a Cargo of Slaves in some of the Out-ports. The usual Correspondence passed respecting this Case, with the usual result. We have the honour to enclose a Copy of our Note to the Captain General, and Translations of His Excellency's Replies.

About a fortnight ago, the *Spanish Brigantine* "*Palmyra*," bound from Matanzas to Barcelona, was captured, shortly after sailing from the former Port, by a *Mexican Vessel of War*. The "*Palmyra*," we have learned, was fitted out at Gibraltar, for the Coast of Africa; and having obtained a Cargo of Slaves, succeeded in landing them, about 2 Months ago, at one of the small Ports to the westward; but, instead of entering this Port afterwards, as is the common practice of Slave-vessels, she proceeded to Matanzas. We have learned these facts since her Capture; but for which circumstance, and the publick conversation to which it gave rise, we should probably have remained in ignorance of this Case of illicit Slave-trade. It has, however, reached our knowledge too late for us to make a Representation upon the subject to the Captain General.

This Case clearly shews, as we have stated on other occasions, that, if the illicit Slave-traders were willing to make the trifling sacrifice of disposing of their Vessels, after landing their Cargoes of Slaves at any of the other Ports of this Island, or at any Foreign Port, they might effectually conceal their proceedings from His Majesty's Commissioners.

We have heard lately that a Revenue Officer, stationed at one of the Suburbs of this City, some time ago detained about 30 Negroes, who were coming in from the Country, and were asserted by their Conductor to belong



to a Plantation, but which he suspected, and upon examination found, to be of recent importation. The Officer reported the Case to his Department, that of the Intendant, but was referred to the Captain General, and again by the latter to the Consulado. The result, however, was, that the Negroes were returned to their Owners; and we have heard that the Officer met with such a reception from all the Authorities to whom he applied, as will effectually deter him from interfering in such transactions for the future.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 78.

*The British Commissioners to the Captain General.*

Havana, February 16, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, have the honour, in conformity to their usual practice, to apprise His Excellency the Captain General, that it will be their duty to report to His Majesty's Government the return to this Port, as announced in the Diario of to-day, of the Schooner "*Primera*," (one of the Spanish Vessels which sailed for the Coast of Africa last Year) under precisely the same circumstances as the other numerous Vessels to which, in obedience to their Instructions, the Undersigned have been under the necessity of calling His Excellency's attention.

The Undersigned avail themselves, &c.

(Signed)

HENRY T. KILBEE.

W. S. MACLEAY.

*His Excellency the Captain General.*

Second Enclosure in No. 78.

(Translation.)

*The Captain General to the British Commissioners.*

Havana February 18, 1828.

GENTLEMEN,

I HAVE received your Note of the 16th Instant, in which you are pleased to apprise me, that it will be your duty to report to your Government, the arrival at this Port of the Schooner "*Primera*," from the Coast of Africa, and you state that she was fitted out here, and sailed for that Coast, last Year, under precisely the same circumstances as the other numerous Vessels.

Being duly apprized of all, I state to you in reply that, in obedience to the Royal Order of the King, my august Sovereign, of the 2d January 1826, I have written, under date to-day, what is necessary to the Second in Command of the Naval Forces on this Station, in order that he may proceed to the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed)

FRANCO. DIONO. VIVES.

*The British Commissioners.*

Third Enclosure in No. 78.

(Translation.)

*The Captain General to the British Commissioners.*

Havana, February 22, 1828.

GENTLEMEN,

UNDER date of Yesterday, the Second in Command of the Naval Forces on this Station, writes to me as follows:—

"Most Excellent Sir,—Under this day's date, the Commandant of "*Matriculas*" says to me as follows:—'From the examination of the Log-book which was kept on board the Schooner "*Primera*," D. Antonio Negrete, Captain, in her Voyage to St. Thomas, it does not appear that any event worthy of observation occurred in her Voyage, or that she committed any act in which she failed in what was directed by her Royal Patent, and the other Documents which were granted to her at her departure from this Port; it being marked down in the said Log-book that the above-mentioned Captain had died, and that the command had devolved on the Mate of the Vessel, D. Domingo Baltiel.'—I forward this to your Excellency in reply to your Letter of the 18th Instant, upon the subject."

I transmit this to you for your information, and in continuation of my reply upon the subject, of the 18th Instant.

God preserve you many Years,

(Signed)

FRANCO. DIONO. VIVES.

*The British Commissioners.*

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*His Majesty's Commissioners to The Earl of Dudley.—(Received May 26.)*

MY LORD,

Havana, April 1, 1828.

' SINCE the date of our Despatch of the 1st Ult., 4 Spanish Vessels have sailed for the Coast of Africa, viz: the Brig "*Cristina*," and the Schooners "*Herculina*," "*Emprendedor*," and "*Missolongi*," of which the respective Masters, were, Francisco de los Reyes, Andres Cortina, Ramon Clavel, and Juan Larrazabal.

On the 19th of March, the Schooner "*Tres Manueles*" returned from the Voyage to that Coast which she commenced on the 9th September 1827. She entered this Port in ballast, but had previously, as is notorious, landed her Cargo of Slaves at some of the Out-ports, we believe to the Westward. We have the honour to enclose a Copy of the Note which we addressed to the Captain General respecting this Case, together with Translations of His Excellency's Replies. The latter are, with the exception of the name of the Vessel, almost literal Copies of those which he is in the habit of sending us on similar occasions.

The "*Tres Manueles*," is the Vessel to which we ventured to draw the attention of His Majesty's Government, in a particular manner, in our Despatches of the 6th and 13th of August, and 30th of September, of last Year, wherein it is stated, that on a former Voyage from the Coast of Africa, she had brought several Sailors belonging to a British Vessel that had been wrecked, which Sailors deposed on oath to the fact, that the Vessel had conveyed a Cargo of Negroes from that Coast, and had landed them at the Port of Vanes, a few leagues to the Westward of Havana. We did not fail to remind the Captain General of this circumstance, upon the present occasion; but His Excellency has not thought proper to take any notice of it in his Replies.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*

&c.

&c.

&c.

First Enclosure in No. 79.

*The British Commissioners to the Captain General.*

Havana, March 21, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, have the honour, in conformity to their usual practice, to apprise His Excellency the Captain General, that it will be their duty to report to their Government the return to this Port on the 19th Instant, of the Spanish Schooner "*Tres Manueles*," which sailed for the Coast of Africa on the 9th of September last, and which, previous to entering this Port, it is well known had landed her Cargo of Slaves on the Coast of this Island.

The "*Tres Manueles*" is the Vessel to which the Undersigned had the honour to call the attention of His Excellency the Captain General, in their Notes of the 3d and 9th of August last, in the last of which His Excellency the Captain General was apprized of her having conveyed from the Coast of Africa several British Sailors, who were on board her when she received a Cargo of Slaves at Gallinas, on that Coast, and when the same were landed at the Port of Vanes, to the Westward of Havana, to which facts they deposed upon oath.

The Undersigned avail themselves, &c.

(Signed)

HENRY T. KILBEE.

W. S. MACLEAY.

*His Excellency the Captain General.*

Second Enclosure in No. 79.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, March 26, 1828.

I HAVE received your Note of the 21st Instant, in which you are pleased to apprise me, that will be your duty to report to your Government the arrival at this Port, from the Coast of Africa.

of the Spanish Schooner "*Tres Manuelas*," which you state was fitted out here and sailed for the said Coast on the 9th of last September, having, previously to her arrival at this Port, landed on the Coast of this Island a Cargo of Slaves.

Being duly informed of all this, I state to you in reply, that, in obedience to the Decree of The King, my august Sovereign, of the 2d January 1826, I have made, under this day's date, the necessary Communication to the Second in Command of the Naval Forces on this Station, in order that he may proceed to the proper investigation, of the result of which you shall be duly informed.

God preserve you many Years.

The British Commissioners.

(Signed) FRANCO. D. VIVES

Third Enclosure in No. 79. (Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, March 29, 1828.

UNDER date the 27th Instant, the Second in Command of the Naval Forces on this Station, writes to me as follows:—

"Most Excellent Sir,—The Principal Commandant of Matriculas of this Province, has written to me, under date the 24th Instant, as follows:—'Having examined the Log-books of the Spanish Schooner named "*Las Tres Manuelas*," which arrived at this Port on the 18th Instant, from the Island of San Tomé, it does not appear by them that this Mercantile Expedition has been engaged in the prohibited traffick of Bozal Negroes, of which I apprise you for the proper purposes, in consequence of the Superior Orders upon this subject.' And I transmit the same to your Excellency, in reply to your Official Letter of Yesterday, relating to the subject."

All which I communicate to you for your information, and in consequence of your Note relating to this Case.

God preserve you many Years.

The British Commissioners.

(Signed) FRANCO. D. VIVES.

No. 80.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 6.)*

MY LORD,

Havana, April 10, 1828.

SINCE the date of our Despatch of the 1st Instant, 2 Spanish Vessels, viz. the Schooners "*Nueva Eloisa*" and "*Primera*," Narciso Esteves and Domingo Bardiel, Masters, have sailed for the Coast of Africa.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

W. S. MACLEAY.

No. 81.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 22.)*

MY LORD,

Havana, April 23, 1828.

THE Spanish Schooner "*Gallito*," D. Guillermo Ferrer, Master, sailed from this Port on the 14th Instant, for the Coast of Africa, and Yesterday the Brig "*Recurso*" D. Juan Jozé Dominguez, Master, sailed for the Isla de Principe.

The Spanish Schooner "*Manuelita*," D. Jozé Bosch, Master, arrived here on the 17th Instant, after having landed a Cargo of Slaves on the Coast. We immediately addressed a Note on the subject to the Captain General, and we now have the honour to enclose a Copy of that Note, with a Translation of His Excellency's Answer.

We have the honour to be, &c.

(Signed)

HENRY T. KILBEE.

The Right Hon. The Earl of Dudley,  
&c. &c. &c.

W. S. MACLEAY.

## First Enclosure in No. 81.

*The British Commissioners to the Captain General.*

Havana, April 18, 1828.

THE Undersigned, His Britannick Majesty's Commissioners, have the honour to apprise His Excellency the Captain-General, that it will be their duty to report to His Majesty's Government another of the Cases of illicit Slave-trading, which they have so frequently to submit to His Excellency's attention, namely, that of the *Spanish Schooner "Manuelita,"* which sailed from this Port, for the Coast of Africa, in November last, and returned on the 17th Instant, in ballast, having previously, as is matter of perfect notoriety, landed her Cargo of Slaves on the Coast of this Island.

The Undersigned avail themselves, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.*His Excellency the Captain General.*

## Second Enclosure in No. 81.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, April 21, 1828.

I HAVE received your Note of the 18th Instant, in which you inform me, that it will be your duty to make your Government acquainted with the arrival in this Port, from the Coast of Africa, of the *Spanish Schooner "Manuelita,"* which Vessel you point out as having been fitted out here, and as having sailed for the said Coast, in November last, and finally, as having, before her arrival in the Havana, disembarked a Cargo of Slaves on the Coasts of this Island.

I now have to inform you, in answer, that in obedience to the Resolution of The King, my august Sovereign, dated 2d January 1826, I have to-day transmitted the necessary directions to the Naval Officer, Second in Command on this Station, to proceed forthwith to the investigation, with the result of which I shall in due time acquaint you.

God preserve you many Years,

(Signed)

FRANCISCO DIONISIO VIVES.

*His Britannick Majesty's Commissioners.*

## No. 82.

*His Majesty's Commissioners to The Earl of Dudley.—(Received June 22.)*

MY LORD,

Havana, April 27, 1828.

IN reference to our last Despatch, we have the honour to enclose the Translation of another Note, which we have received from the Captain General, upon the subject of the *Spanish Schooner "Manuelita."* This Note is exactly to the same effect as those we are in the habit of receiving from His Excellency in similar Cases; namely, that the examination of the Log-book has afforded no ground for supposing that the Vessel had been engaged in the Slave-trade.

On the 24th Instant, the Brig "*Nueva Empresa,*" José San Juan, Master, sailed for the Coast of Africa.

We have the honour to be, &amp;c.

(Signed)

HENRY T. KILBEE.  
W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

## Enclosure in No. 82.

(Translation.)

*The Captain General to the British Commissioners.*

GENTLEMEN,

Havana, April 23, 1828.

THE Officer Second in Command over the Naval Forces on this Station, has addressed the following Letter to me, dated Yesterday, which I beg to transmit for your information:—

"Most Excellent Sir,—I have received a Letter, dated the 13th Instant, from the Commandant of Enrolments, stating that the Assistant in his Office had examined the Log-book presented by the Captain of the Schooner "*Manuelita*," D. Jozé Bosch, and had found in it nothing whatever to criminate the said person in his Voyage round St. Thomas, to which Place it appeared he had sailed from this Port; and I transcribe this Letter for your Excellency, in reply to that in which you were pleased to transmit me a Copy of the Answer you addressed on this subject to the Commissioners of His Britannick Majesty."

May God preserve you many Years.

(Signed) FRANCO. DIONO. VIVES.

*The Commissioners of His Britannick Majesty.*

### No. 83.

*H. T. Kilbee, Esq. to John Backhouse, Esq.—(Received June 22.)*

SIR,

*Havana, April 28, 1828.*

BEING desirous of availing myself of the leave of absence formerly granted by the late Mr. Canning, which the Earl of Dudley has been pleased to confirm. I have the honour to inform you, that it is my intention to leave this Port to-day, for the purpose of proceeding to England, by way of The United States of America.

I have, &c.

*John Backhouse, Esq.  
&c. &c. &c.*

(Signed)

HENRY T. KILBEE.

### No. 84.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received June 22.)*

MY LORD,

*Havana, May 5, 1828.*

ON the 1st of May the *Spanish* Brigantine "*Aerostutico*," D. Francisco Garcia, Master, sailed for the Coast of Africa, and Yesterday the *Spanish* Schooner "*Viscayna*," D. Antonio de Zaldesondo, took her departure for the same destination.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,  
&c. &c. &c.*

### No. 85.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Havana, May 16, 1828.*

I AM sorry to inform your Lordship that no less than 5 Vessels sailed from this Port Yesterday for the Coast of Africa; namely, the Schooner "*Tres Manuelas*," D. Juan Batalla, Master; the Schooner "*Juanito*," D. Manuel Alcantara, Master; the Schooner "*Graciosa*," D. Juan Casas, Master; the Schooner "*Clio*," D. Francisco Matamala, Master; and the Schooner "*Coqueta*," D. Jozé Garcia, Master.

The "*Tres Manuelas*" is indeed a very glaring Case, as this Vessel has thus for the second time been permitted to sail for the Coast of Africa, after His Majesty's Commissioners had, in the most particular manner, called the attention of the Captain General to her, as being proved, on the Affidavits of several British Sailors, to have landed Negroes at the neighbouring Port of Vanes. His Excellency has thought proper to pay no attention to these Affidavits, but even without them the guilt of the "*Tres Manuelas*" ought

now to be sufficiently manifest, as it is impossible to understand that a Vessel should make so many excursions to the Coast of Africa, and return into this Port so regularly in ballast, did she not render her Voyages profitable by landing Negroes on the Coast.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

### No. 86.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Havana, May 19, 1828.*

THE *Spanish Brig "Almirante,"* D. Domingo Castro, arrived here in ballast from the Coast of Africa, on the 15th Instant. She landed Negroes it is said, to the amount of 650, at or near the Port of Vanes, in this Island. The "*Almirante*" is a large Vessel, armed, and mounting no less than 20 guns.

I lost no time in letting the Captain General know that it would be my duty to inform your Lordship of her arrival, and I now enclose a Copy of my Note, and a Translation of His Excellency's Answer.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

### First Enclosure in No. 86.

*The British Commissioner of Arbitration to the Captain General.*

*Havana, May 15, 1828.*

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to acquaint His Excellency the Captain-General, that he will be under the painful necessity of informing His Majesty's Government of the arrival in this Port, from the Coast of Africa, of another *Spanish Vessel*, namely, the Brig "*Almirante*," D. Domingo Castro, Master, after having landed on the Coast a very large Cargo of Negroes.

The Undersigned avails himself, &c.

*His Excellency the Captain-General.*

(Signed) W. S. MACLEAY.

### Second Enclosure in No. 86.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

*Havana, May 17, 1828.*

IN consequence of the information given me in your Letter of the 15th Instant, I have addressed a Letter to the Commander-in-Chief of the Naval Forces on this Station, directing him forthwith to enter upon such investigation as may be necessary to ascertain whether or not the Brig "*Almirante*," just arrived in the Harbour, has conveyed and landed a Cargo of Negroes.

God preserve you many Years.

(Signed) FRANCO. DIONO. VIVES.

*The Commissioner of His Britannick Majesty.*

### No. 87.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received July 19.)*

MY LORD,

*Havana, June 3, 1828.*

I HAVE now the honour to enclose the Translation of a Note from the Captain General, transmitting the result of the investigation made in the

Case of the Brig "*Almirante*." Because the nefarious traffick of this notorious Vessel is not alluded to in her Log-book, it appears that she is, according to the rule they have adopted, accounted innocent by the Spanish Authorities.

On the 1st Instant, the *Spanish* Schooner "*Potosi*," D. Andres Larrazabal, Master, sailed from this Port for the Isla de Principe.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 87.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, May 21, 1828.

I NOW send you the following Letter, dated Yesterday, which the Officer, Second in Command of the Naval Forces on this Station, has addressed to me :

"Most Excellent Sir,—The Principal Commandant of the Registers of this Island, has written me, under the date of the 17th Instant, to the following effect, viz.—'The Journals of the Brig "*Almirante*," which, coming from the Island of St. Thomas, anchored in this Port on the 14th Instant, being laid before me, I can find no proof therein that this mercantile expedition has been employed in the prohibited Traffick of Negroes, and in order that you make the proper use of this circumstance, I now make it known to you, in consequence of the instructions you have received on this subject from the Captain General.'

I transcribe this Communication for your Excellency, in answer to your Letter of the 15th, enclosing a Copy of a Letter from the Commissioner of His Britannick Majesty, on the subject of the "*Almirante's*" arrival.

May God preserve you many Years,

(Signed)

FRANCo. DIONo. VIVES.

*The Commissioner of His Britannick Majesty.*

No. 88.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

Havana, June 19, 1828.

FOUR Vessels sailed Yesterday from this Port for the Coast of Africa, viz. the Schooner "*Manuelita*," D. Jozé Bosch, Master; the Brig "*Juan*," D. Ramon Nozedal, Master; the Brig "*Almirante*," D. Andres Inzua, Master; and the Schooner "*Nueva Campeadora*," D. Gaspar Pratt, Master. Of these, the "*Manuelita*," and "*Almirante*," are the Vessels, the arrival of which, with Slaves from the Coast of Africa, His Majesty's Commissioners have very lately reported to your Lordship.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 89.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

Havana, June 23, 1828.

ON the 9th Instant, the *Spanish* Schooner "*Indagadora*," D. Manuel Hernandez, Master, and on the 10th Instant, the Brig "*Segunda Teresa*," D. Mariano Carbo, Master, both arrived in this Port, after having landed their Slaves on the Coast. On the 15th, the Schooner "*Dorotea*," D. Manuel Santiago Echevarria, also arrived, after having landed a Cargo of

Slaves. I have the honour to enclose Copies of the Correspondence which passed between the Captain General and myself, with respect to these various Slave-vessels, and I am sorry that it should be so much according to the usual form. With respect, indeed, to the "Indagadora," and "Segunda Teresa," I have not yet had the final answer, but when it arrives, I have little doubt but that it will prove of the usual tenour; namely, that nothing is to be found in the Log-books of these Vessels, sufficient to convict them of illicit Slave-trading.

It is very generally said in the Havana, that the Negroes of the "Segunda Teresa," which were landed at a short distance from the Port, were arrested by a *Capitan de Partido*, and only liberated after the payment of 17 Dollars per head.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 89.

*The British Commissioner of Arbitration to the Captain General.*

Havana, June 10, 1828.

THE Undersigned has the honour to state to your Excellency, that it will be his duty to state to His Majesty's Government, that another Slave-vessel has arrived in this Port from Africa, namely, the Spanish Schooner "Indagadora," D. Manuel Hernandez, Master, after having landed her Slaves on the Coast, near the Havana.

The Undersigned avails himself, &c.

His Excellency the Captain General.

(Signed)

W. S. MACLEAY.

Second Enclosure in No. 89.

*The British Commissioner of Arbitration to the Captain General.*

Havana, June 12, 1828.

THE Undersigned regrets to have to call your Excellency's attention to another Case of Slave-trade, which he will be under the necessity of laying before His Majesty's Government, namely, the Spanish Brig "Segunda Teresa," D. Mariano Carbo, Master, which has just arrived, after having landed her Slaves.

The Undersigned avails himself, &c.

His Excellency the Captain General.

(Signed)

W. S. MACLEAY.

Third Enclosure in No. 89.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, June 14, 1828.

I HAVE received your Notes of the 10th and 12th Instant, in which you inform me, that it will be your duty to communicate to your Government the arrival in this Port of the Spanish Schooner "Indagadora" and Brig "Segunda Teresa," coming from the Coast of Africa, which Vessels, as you inform me, have disembarked on the Coast of this Island their Cargoes of Slaves.

I now have to inform you, in answer, that, in obedience to the Resolution of The King, my august Sovereign, dated the 2d of January 1826, I transmit this day your Notes to the Officer, Second in Command of the Naval Forces on this Station, in order that he may proceed to make the necessary enquiries, of the result of which I shall inform you without delay.

God preserve you many Years,

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

Fourth Enclosure in No. 89.

*The British Commissioner of Arbitration to the Captain General.*

Havana, June 17, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to inform your Excellency, that another Slave-vessel, the "Dorotea," D. Manuel Santiago Echevarria, having just arrived in this Port, after landing Negroes, it will be his duty to state the circumstance to His Majesty's Government.

The Undersigned avails himself, &c.

His Excellency the Captain General.

(Signed)

W. S. MACLEAY.



Fifth Enclosure in No. 89.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, June 19, 1828.

I HAVE received your Note of the 17th Instant, in which you inform me, that it will be your duty to communicate to your Government the arrival in this Port of a Slave-vessel, called the "*Dorotea*," after she had landed her Negroes on the Coast.

I have now to inform you, in answer, that in obedience to the Royal Order of The King, my august Sovereign, dated 2d January 1826, I have to-day transmitted the necessary orders to the Officer, Second in Command of the Naval Forces on this Station, directing him to proceed to an investigation of the result, of which you shall be duly apprized.

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

Sixth Enclosure in No. 89.

(Translation.)

*The Captain General to The British Commissioner of Arbitration.*

SIR,

Havana, June 23, 1828.

I HAVE to transmit to you the following Letter of the 21st Instant, addressed to me by the Naval Officer, Second in Command of the Forces on this Station.

"Most Excellent Sir,—The Commandant of Registers informs me to-day, that he has examined the Log-books of the Spanish Merchant Schooner named the "*Dorotea*," alias "*El Pollo*," and that she does not appear to be concerned in the illicit traffick of Negroes, which circumstance I beg leave to acquaint your Excellency with, in answer to your Letter, dated the 19th, transmitting one from the British Commissioner respecting this Vessel."

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

No. 90.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

(Extract.)

Havana, June 27, 1828.

THE Captain-General having, as it has since appeared through mistake, addressed to the Mixed Commission the Note, of which I have now the honour to enclose to your Lordship a Translation, it was laid before the Spanish Commissioners and myself, by our Secretary, on the 23d Instant. The sole purport of this Note is to know the actual state of the Spanish Moiety of the proceeds arising from the sale of Vessels condemned under the Mixed Commission. I therefore immediately declared, that the object of the enquiry fell in no way under my cognizance as a British Commissioner, and declined to answer a Note which I thought must have been intended solely for the Commissioners of His Catholick Majesty, who have ever had the entire management of that portion of the Funds which accrues to the Spanish Government. My Colleagues perfectly coincided with me in opinion, and agreed that the Note should be answered, not by the Mixed Commission, but by themselves alone, in their capacity of Spanish Commissioners.

The grounds, however, upon which this enquiry was made, into the state of the Spanish Moiety of the proceeds from the sale of condemned Vessels, appeared to me to involve too great an alteration of the system hitherto pursued, with respect to emancipated Negroes, to justify my taking no further notice whatever of His Excellency's Note.

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The 7th Article of the Regulations annexed to the Treaty, did not indeed seem very completely to oppose the proposition of the *Spanish* Minister, as expressed in his Letter to the Captain General, for the words of that Article are;—the Emancipated Slaves, “shall be delivered over to the Government on whose Territory the Commission which shall have so judged them shall be established, to be employed as servants or free labourers.” It appeared therefore difficult for me to deny the right of the *Spanish* Government to transport the emancipated Slaves to Europe, although it is clear that, under such a pretext, without a sufficient watch being kept on the persons employed to carry the measure into effect, a Cargo of ignorant Africans might be conveyed to Puerto Rico, or even to other Ports of this Island, and there consigned to hopeless slavery. Nevertheless, if due care were taken to prevent fraud in their removal to Europe, the measure proposed cannot fail to be highly advantageous, not merely to the peace of this Island, but to the Negroes themselves, who will no doubt in Europe experience better treatment, and, moreover, have their liberty more secure, than it can ever be expected to be in a place where slavery prevails, and where there are too many facilities for defrauding an ignorant Bozal Negro of his rights.

Guided therefore by these various considerations, but, above all, by the probability there is, from the tenour of the latter part of the *Spanish* Minister's Despatch, that the measure in question has already been the subject of Negotiation between the two Governments, I thought it best not to enter into any Correspondence upon the subject, but merely to announce verbally to the Captain-General, my intention to protest against any removal of Negroes, emancipated by the Mixed Commission, taking place, without the general consent of His Majesty's Government being previously given to such proceedings. I accordingly called on His Excellency, who, in the first place, informed me, that my suspicions were right, as to his Note not having been intended to come before the Mixed Commission, and further stated, that his Secretary had committed a still greater mistake in detailing the grounds upon which the enquiry had been made into the amount of the *Spanish* portion of the abovementioned Funds. Since, however, the measure proposed by his Government had thus been mentioned, His Excellency said he would take that opportunity to assure me, that, notwithstanding the terms of the *Spanish* Minister's Letter, the plan must necessarily be entirely prospective. It will not, according to him, in any way affect the Negroes already emancipated, who, having by marriage, apprenticeship, or other ties, become connected with the Island, cannot now conveniently be removed.

I contented myself with observing, that His Excellency must be aware that I could never consent, without particular Instructions on the subject from home, to any alteration of the present system being made, even with regard to future condemnations; and I added, that I was bound to be the more particular on this head, from the circumstance, that a door might clearly be opened to a complete evasion of the Treaty, if the removal of the Negroes did not take place under some special Arrangement between the two Governments.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley.*  
 &c.                      &c.                      &c.

Enclosure in No. 90.

(Translation.)

*The Captain General to the Mixed Commission.*

GENTLEMEN,

Havana, June 19, 1828.

HIS Excellency the Secretary of State has written me a Despatch, dated the 15th Ultimo, of which the following is an Extract:—

“Most Excellent Sir,—As soon as I received your Despatch, dated 1st December 1826, and the Representation, which it enclosed and supported, of the Municipality of the Havana, I communicated its contents to The King, our Sovereign; and, penetrated with the solid reasons therein set forth, and convinced of the immense evils that may result from the

permanence and increase, in Cuba, of the Negroes, who obtain freedom, in virtue of the Treaty for abolishing the Slave-trade; His Majesty took the whole affair into his most grave consideration, and gave orders that, first, his Council of Ministers, and secondly, the Council of State, should propose the means of avoiding the dreadful consequences of the presence of so great a number of free blacks in that precious part of his Dominions. These proceedings being at length terminated, and the opinions, moreover, of several persons, distinguished for their judgment and knowledge having been heard, His Majesty, in conformity with the sentiments of a part of his Council of State, has resolved—First, that all the Negroes actually emancipated, in virtue of the provisions on this head, set forth in Article VII of the Regulations, which form an integral part of the Treaty concluded in 1817, with England, for the abolition of the Slave-trade, shall be withdrawn from the Island of Cuba, and transported to some of the Possessions or Dominions of His Majesty in Europe, even though it should be to Spain itself; care being taken, wherever they are carried, to give them the same destination they would have had in the said Island, according to the stipulations of the abovementioned Article. Secondly, that the expences of transporting these Negroes to His Majesty's European Dominions, shall be defrayed out of that part of the proceeds from capture of Slave-vessels which may belong to The King our Lord; and if this shall not be found sufficient for the purpose, that there be made, in order to realize a proper sum, a prudent reparation (*un reparto prudencial*) among all the inhabitants of the Island; whilst, in the mean time, His Majesty deems it expedient to enter upon such Negotiations with England as may appear convenient, with respect to modifications of Article VII of the abovementioned Regulations."

And I now, Gentlemen, transmit this to you, in order that you may inform me of the actual state of the Funds which belong to His Majesty, as arising from the proceeds of sale of condemned Vessels.

God preserve you many Years.

(Signed)

F. D. VIVES.

*His Excellency the Intendant, and the other  
Members of the Mixed Commission.*

### No. 91.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

*Havana, July 1, 1828.*

I HAVE the honour to inform your Lordship, with reference to the Instructions, directing His Majesty's Commissioners to transmit Half-Yearly Returns of the Cases adjudicated by the Mixed Commission established here, that no Vessel has within the last 6 Months been brought to the Havana for adjudication.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,  
&c. &c. &c.*

### No. 92.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

MY LORD,

*Havana, July 2, 1828.*

FOUR Vessels, regularly fitted out for the Slave-trade, took their departure Yesterday from this Port, 3 of them direct for the Coast of Africa, viz. the Brig "*Coradino*," D. Francisco de la Casa, Master; the Schooner "*Pantica*," D. Miguel Romero Vega, Master; and the Schooner "*Indagadora*," D. Manuel Dias de Medina, Master. The 4th Vessel, the Brig "*Tres Hermanos*," D. Juan José Felipe Remedios, Master, is of the same Class with the preceding, but took her departure for the Canary Islands.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,  
&c. &c. &c.*

## No. 93.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received August 18.)*

(Extract.)

*Havana, July 11, 1828.*

HIS Majesty's Ship "Grasshopper," Abraham Crawford, Esq. Commander, having been sent by Admiral Fleeming to examine the line of Coral Reefs, called *Los Colorados*, and which are said at this time to be the haunt of Pirates, fell in with the "*Xerxes*," Spanish Schooner, and after 26 hours' chase succeeded in capturing her, with 408 Slaves on board, as declared by the Master of the "*Xerxes*," but who now prove to have been no more than 406, of whom 1 is claimed by the Master as his servant.

The "Grasshopper" arrived here in the Evening of the 5th Instant. On Monday the 7th, the Mixed Commission met, and have ever since been employed in the investigation of the circumstances attending this Detention. The full particulars of the Case, as well as the various Evidence brought forward, I shall have the honour to transmit to your Lordship as soon as I get the Papers from the Secretary of the Mixed Commission.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
                   &c.                   &c.                   &c.

## No. 94.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 18, 1828.*

YOUR Despatch of the 20th of January, of this Series of the Slave-trade, having been submitted to His Majesty's Advocate General, that Officer has reported it to be his opinion, that the presence of the Commander of the Capturing Ship is, under the Treaty with *Spain* for the Abolition of the Slave-trade, not essentially necessary to the due adjudication of the Prize.

The King's Advocate does indeed admit, in giving this opinion, that some of the Regulations and Instructions seem to have been framed under the presumption, that the Prize would be accompanied into Port by the Capturing Ship; and that such may have been, in fact, the intention of the Parties to the Treaty; but he further states, that there are no words which make it imperative upon the Captors so to do, or which, in his opinion, would justify the Commissioners in refusing to proceed to adjudication, merely on the ground of the absence of the Captor.

If, indeed, in the course of the proceedings, circumstances should arise, which, in the judgment of the Commissioners, might require the examination of the Commander of the Capturing Ship; they, or either of them, have, in the opinion of The King's Advocate, a right to demand it; and, in that case, the final Sentence must be postponed till the attendance of the Commander of the Capturing Ship can be procured; but The King's Advocate is decidedly of opinion, that if, upon the examination of the Papers, and of the Master and Crew of the detained Ship, sufficient Evidence should be obtained, to justify a Decree of Restitution, or a Sentence of Condemnation, the Sentence, in either case, would be valid.

The King's Advocate adds, that, although inconvenience might occur when, in the course of these Trials, it should be deemed necessary to demand and wait for the presence of the Commander of the Capturing Vessel, still, on the other hand, a requisition that, upon every Capture, the Cruizer should quit his Station and attend the Prize to adjudication, would endanger the very object which the Treaty had in view.

You will take the opinions above stated as the rule of your conduct, on the points to which they apply.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

No. 95.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

*Havana, July 24, 1828.*

I HAVE the honour to enclose the Translations of 2 Notes that I have received from the Captain General, containing the result of the Investigations in the Cases of the "*Indagadora*" and "*Segunda Teresa*."

On the 14th Instant, the Schooner "*Transito*," D. Antonio Perez, Master, arrived in ballast, after having landed her Cargo of Slaves on the Coasts of this Island. I enclose Copies of the Correspondence which passed between the Captain General and myself on this occasion.

I have only to remark on these various Letters, that it is quite absurd to found the innocence of such Vessels on the silence of their Log-books, with respect to their guilty traffick, for in the Case of the "*Xerxes*," just condemned by the Mixed Commission, I examined her Journals and Log-books with great care, and found not a word respecting the particular nature of her Cargo or Traffick.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon The Earl of Dudley,*  
 &c.                      &c.                      &c.

First Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

*Havana, July 7, 1828.*

IN his Letter to me of the 5th Instant, the Officer Second in Command over the Naval Forces, on this Station, writes as follows:—

"Most Excellent Sir,—The Commandant of Registers has addressed to me a Letter, dated the 12th Instant, to the following purport, viz.—'That the Log-books of the Spanish Schooner "*Indagadora*," lately arrived in this Port, D. Manuel Fernandez, Master, having been examined, there appears no proof whatever that this Mercantile Expedition has had any concern with the illicit Traffick of Negroes; and with respect to the Schooner "*Segunda Teresa*," there has been as yet no examination of her Journals and Log-books, on account of her Captain having been put in arrest on board the Flag-ship as soon as he arrived, for having been insolent to the Inspecting Officer, and having allowed his Crew to escape; but I have now taken the proper measures for the production of these Books, and as soon as I have examined them I shall communicate to you the result. The delay that has occurred in thus answering your enquiries, has proceeded from your

Letter of the 14th June, relating to both Vessels ; and this statement I trust will be considered a sufficient reply to the Letter dated Yesterday.' "

I have only to add, that when I receive the final answer respecting the "Segunda Teresa," I shall make you acquainted with it. God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

Second Enclosure in No. 95.

*The British Commissioner of Arbitration to the Captain General.*

Havana, July 16, 1828.

THE Undersigned has the honour to call the attention of His Excellency the Captain General, to another arrival from the Coast of Africa, namely, the Schooner "Transito," D. Antonio Perez, Master. It will be the painful duty of the Undersigned to report her as having landed Slaves on the Coast of this Island, previously to entering this Port in ballast.

The Undersigned avails himself, &c.

*His Excellency the Captain General.*

(Signed) W. S. MACLEAY.

Third Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 18, 1828.

I HAVE received your Note of the 16th Instant, in which you inform me, that it will be your duty to inform your Government of the arrival in this Port, in ballast, of the Spanish Schooner "Transito," after having landed a Cargo of Slaves on the Coasts of this Island.

In obedience to the determination of my august Sovereign, dated January 2, 1826, I have this day issued the necessary orders to the Officer Second in Command over the Naval Forces on this Station, directing him to proceed to the proper investigation, and you shall be duly informed of the result.

God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

Fourth Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 21, 1828.

IN his Letter of the 19th Instant, the Officer Second in Command over the Naval Forces on this Station, writes to me as follows:—

"Most Excellent Sir,—The Principal Commandant of the Register Office informs me, that he has examined the Log-books of the Spanish Schooner "Transito," which lately anchored in this Port, after a Voyage from the Island of St. Thomas, and that there is no proof that this Mercantile enterprize has had any concern with the prohibited Traffick in Bozal Negroes."

I transcribe this part of his Letter for your Excellency, in answer to the Note respecting this affair, in which you enclose to me a Copy of the Letter of His Britannick Majesty's Commissioner."

The above Letter I now transmit for your information, and may God preserve you many Years.

(Signed) F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

Fifth Enclosure in No. 95.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 23, 1828.

IN his Letter of Yesterday, the Officer Second in Command over the Naval Forces in this Island, writes me as follows:—

"Most Excellent Sir,—The Principal Commandant of Registers writes me to day, that the Log-books of the Schooner "Segunda Teresa" have now been delivered up to him, and

were not delivered before in consequence of the correctional arrest under which I had thought proper to place D. Mariano Carbo, the Master of the said Vessel, for want of attention to certain Regulations of the Marine. He adds, that having examined the said Documents, there is nothing to prove that this Mercantile Expedition has had any concern with the illicit Traffick in Slaves. This I write for your Excellency's information, and in answer to the 2 Letters of the 14th of June last, and the 4th Instant."

I now transcribe this Letter for your information, and may God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

No. 96.

*W. S. Mucleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

*Havana, July 26, 1828.*

HIS Majesty's Commissioners have made it a rule to adhere closely to the Instructions of the late Mr. Secretary Canning, as conveyed to Mr. Kilbee by Mr. Planta, in his Letter dated 4th June 1825, and to represent every arrival of a Slave-vessel, that comes within their knowledge, to the Captain General, previously to submitting the particular circumstances of the Case to His Majesty's Government. Of late indeed I have too often had to express to your Lordship my regret, that this practice should have dwindled into a mere form, without producing any visible good effect; but I nevertheless felt it still my duty to continue these Representations, hoping that His Excellency might in time feel the indecorum of eluding them, by so fallacious a proceeding as that which has been used to nullify the Royal Order of 2d January 1826.

On the 9th Instant, the *Spanish* Schooner "*Esperanza*," D. Eustaquio Perez Noriega, Master, a Vessel which was announced to your Lordship by His Majesty's Commissioners, in their Despatch of the 31st December last, as having sailed on the 25th of that Month for the Coast of Africa, returned into Port in ballast, after having, as was confidently said in the Havana, landed about 270 Slaves on the Coasts of this Island. I immediately addressed a Note, of the usual form, a Copy of which is enclosed, to the Captain General, apprizing him that it would be my duty to report her to your Lordship. I must confess that I little expected to have any other than the usual answer, stating that her Log-book had been examined, and nothing therein found to prove her guilt. However, to my great surprize, I heard the other day of her having been seized by the Court of Admiralty, and that the Crew had been put under arrest. Soon after I received a Letter, of which a Translation is enclosed, from the Captain General, transmitting a Representation of the Fiscal of the Court of Admiralty, and a consequent Sentence of that Tribunal, decreeing that the "*Esperanza*" and her Crew should be detained, to abide the result of an investigation into the facts that had given rise to my Letter to the Captain General, and requesting me to continue to give Evidence to the Court against the Vessel. It is difficult to comprehend the cause of this extraordinary proceeding, for it so happens that the arrival of the "*Transito*," has been announced by me to the Captain General since that of the "*Esperanza*," and, nevertheless, almost immediately after, I received the usual answer, stating that her Log-books had been examined, in pursuance of the terms of the Royal Order, and that the Vessel was thus found innocent. I am inclined to believe, therefore, that for the sake of decency, and because so many Vessels have lately arrived, it was determined to select one example, which proves to be the "*Esperanza*;" but that, at the same time, it was resolved to make use of this trial to ascertain the full extent of my information, and shifting the odium from the Local Authorities, to throw the whole responsibility of the prosecution on me. The proper line of conduct to pursue in this affair appeared to me sufficiently obvious, as I not merely had neither instructions nor authority, to take upon myself the part of publick Accuser in the *Spanish* Tribunals, but because I was convinced your Lordship would feel that such an ungracious office in one Court would be quite incompatible with the duties and dignity of a Judge, taking cognizance of the same species of offence in another Court. There could be no doubt,

moreover, that should I appear before a *Spanish* Tribunal as Accuser, without Papers or strictly legal Evidence (as from my peculiar situation, must necessarily be the case, if I interfered at all,) any character I might have obtained for impartiality would soon be destroyed, in the eyes of the Spaniards. I therefore answered the Captain General, that I must respectfully decline the office of publick Accuser in the *Spanish* Court of Admiralty, because I had no authority for the purpose; and that I thought His Excellency must feel that a *British* Commissioner was not the proper Individual to prosecute Spaniards in a *Spanish* Court, for offences against *Spanish* Laws. At the same time, as a matter of mere information, I laid before His Excellency the various grounds upon which I had resolved to report the "*Esperanza*" to your Lordship, in order that it might not be thought that I had formed my opinion precipitately. I have the honour to enclose a Copy of my Note. Your Lordship will there perceive, that the only peculiar circumstance attending the arrival of the "*Esperanza*" is, that she was chased, and nearly captured, by His Majesty's Sloop "*Grasshopper*," and was afterwards seen by her to enter the Port in ballast. Of this circumstance I was not aware when I announced her arrival to His Excellency, and afterwards, partly from being at the time much engaged in the Mixed Commission with the "*Xerxes*," and still more from being unwilling, uselessly, to expose a British Officer to such supercilious treatment as Lieutenant Nott experienced in this very Court of Admiralty in 1826, on the more glaring event of the arrival of the "*Minerva*," I refrained from offering Lieutenant Warren's Evidence to the Captain General, until I found that it was seriously intended to investigate this Case of illicit Slave-trade.

I took the opportunity also to state to the Captain General, that the Vessels which clear out from this Port for St. Thomas, on the Coast of Africa, or the "*Isla de Principe*," can only go there for illicit purposes; for it is evident (even were it not so proved by the Custom-House Report for last Year,) that a place like the Havana can have in its present state no legal Commerce with the Coast of Africa. Slave-traders, indeed, like the Crew of the "*Xerxes*," may swear that they go there for ivory and palm-oil, but the peculiar construction of their Vessels, and the well known fact that not one of them ever returns with a legal Cargo, go all to prove that these wretched beings only perjure themselves.

Whatever may be the result in the Case of the "*Esperanza*," it cannot be otherwise than unfavourable to the Slave-trade, as even if she should escape, it will not be without having incurred enormous expence.

Your Lordship will perceive the very peculiar and difficult situation in which His Majesty's Commissioners are here placed, with respect to the Local Authorities, so long as these shall be inclined to protect the Slave-trade. It is most obvious, for instance, that they know, not only every thing that I could have learned with respect to the "*Esperanza*," but doubtless, from having possession of the Vessel and Papers, much more; and yet they call on me, of all persons in the Island the most unlikely, from my situation, to procure Evidence, to prosecute her. As in the Cases of the "*Dichosa*," and "*Isabel*," the Court of Admiralty may declare the innocence of the "*Esperanza*," and, transmitting the Proceedings to their Government, may thus be the means of bringing my conduct, in denouncing her, more particularly under your Lordship's notice; but I venture to trust it will be believed, that, although it is often out of the power of His Majesty's Commissioners to procure legal Evidence against a Vessel, they have never yet reported one as concerned in illicit Slave-trade, without the most absolute moral conviction of her guilt.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.



## First Enclosure in No. 96.

*The British Commissioner of Arbitration to the Captain General.*

Havana, July 11, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to apprise His Excellency the Captain General, that it will be his duty to report to His Majesty's Government, the arrival in this Port, from the Coast of Africa, on the 9th Instant, of another Slave-vessel, the Schooner "*Esperanza*," D. Eustaquio Perez Noriega, Master, having previously to her arrival landed her Cargo of Slaves on the Coast of this Island.

The Undersigned avails himself, &amp;c.

(Signed)

W. S. MACLEAY.

*His Excellency the Captain General.*

## Second Enclosure in No. 96.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 14, 1828.

I HAVE received your Note of the 11th Instant, in which you inform me, that it will be your duty to acquaint your Government with the arrival in this Port of a Negro-vessel, called the "*Esperanza*," after she had landed on the Coast of this Island her Cargo of Bozal Negroes; and in answer, I have to inform you, that, in obedience to the Resolution of The King, my august Sovereign, dated 2d of January 1826, I transmit to-day the necessary directions to the Officer Second in Command over the Naval Forces on this Station, that he may proceed to make the requisite investigation, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed)

F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

## Third Enclosure (A.) in No. 96.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 14, 1828.

IN his Letter of Yesterday, the Officer Second in Command over the Naval Forces on this Island, writes to me as follows:—

"Most Excellent Sir,—I enclose to your Excellency a Copy of the Representation made to me by the Honorary Auditor and Fiscal of the Court of Admiralty on this Station, and of the provisions I have made, with the advice of the Auditor, in consequence of the Letter which your Excellency was pleased to address to me, on the 14th Instant, relative to the entry in this Port of the Spanish Schooner, named "*La Esperanza*," which, according to the Note of the Commissioner of His Britannick Majesty, landed a Cargo of Slaves on the Coasts of this Island; I adopt this measure in order that, on the view of the whole Proceedings, your Excellency may be pleased to accede to the proposition of the said Fiscal."

I now, Sir, transmit you a Copy of these Papers, in order that you may take cognizance of them.

God preserve you many Years.

(Signed)

FRANCISCO DIONISIO VIVES.

*The Commissioner of His Britannick Majesty.*

## Third Enclosure (B.) in No. 96.

(Translation.)

*Representation made by the Fiscal of the Court of Admiralty, in the Case of the Spanish Schooner "Esperanza."*

Eight o'Clock, A. M. Havana, 19th July 1828.

THE Fiscal says, that Yesterday, at Noon, the proper Papers were transmitted by the Commandant-General of Registers, and, as there appears a particular urgency that no time should be lost in adopting the measures necessary to satisfy publick justice, and the upright zeal of the Commissioner of His Britannick Majesty, the Undersigned is of opinion that the Schooner "*Esperanza*" be immediately seized, and delivered over into the charge of a person who may merit the confidence of this Tribunal; that the Officers of the said Schooner, with all her Crew that can be found, be conducted, separately, as detained persons to such Prisons of the Admiralty as offer every security; and that all kind of communication between them being there prevented, the Auditor of the Admiralty Court may then proceed to verify the facts which have given rise to the Note of the British Commissioner; and since there is no less zeal existing on the part of that Spanish Tribunal which takes cognizance of the due execution of the Treaties, relative to the Commerce of the Coast of Africa, the Fiscal proposes that the Commissioner of His

Britannick Majesty be informed, through the medium of His Excellency the Governor and Captain General, of the deliberations of this Court, and be furnished with a Copy of this Representation; requesting him, in consideration of the distinguished confidence which he has merited from his Sovereign, to continue to send us all the information that may serve as a guide or path to the complete proof of the crime. You, Sir, however, will, as usual, take such measures on this head, as may be deemed proper. (Signed) COIMBRA.

*The Officer Second in Command of the Naval Forces.*

Third Enclosure (C.) in No. 96.

(Translation.)

*Decree of the Court of Admiralty, in the Case of the "Esperanza."*

Havana, July 20, 1828.

IN conformity with the proposition of the Fiscal, made in his Representation to the Officer Second in Command over the Naval Forces on this Station,—Let the Spanish Schooner, called "*Esperanza*," be placed, without loss of time, in charge of the "*Alcalde de Mar*," D. Juan Perez, and a formal Inventory be taken by one of the Assistants of the *Mayoria* of the Marine, aided in the process by the Captain and Owner of the said Schooner; and if these Individuals be not found, when duly and promptly cited, let the above proceeding take place in presence of three Witnesses. Further, let the proper orders be issued by the Mayor General of the Marine to his Department to conduct forthwith, as detained persons, the Captain of the said Schooner "*Esperanza*," the Officers, and all her Crew, on board of those Ships of War that may be most convenient for their security, and to keep them there, separated from each other; the Auditor of the Court then proceeding to take the necessary Depositions, for the purpose of verifying the facts, which have given rise to the Note which the Commissioner of His Britannick Majesty addressed to His Excellency the Captain General, and giving corresponding orders to the Alguazils of this Tribunal, and all the Chiefs of the Office of Registers. Further, let the Communication proposed by the Fiscal, be made to the Captain General, in the terms, and for the object, the said Officer has indicated; and, without any anticipation of our ultimate Decision, let the Commandant of the Register Office produce a certified Copy of the Register with which the said Schooner "*Esperanza*" sailed from this Port, the Court reserving to itself the right to take such ulterior measures as may be proper, as soon as the provisions mentioned above shall have been fulfilled.

(Signed) TOPETE.  
PONCE DE LEON.  
JOZE MIGUEL IZQUIERDO.

Copy, in conformity with the Original, deposited in the Secretariat of the Admiralty; and in virtue of superior orders, I certify the same.

Havana, July 21, 1828.

(Signed) PLACIDO BORRERO.

A true Copy. (Signed) ANTONIO M. DE LA TORRE Y CARDENAS.

Fourth Enclosure in No. 96.

*The British Commissioner of Arbitration to the Captain General.*

Havana, July 23, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, begs to acknowledge the receipt of the Note of His Excellency the Captain-General, dated Yesterday, and of its Enclosures, which detail the proceedings that have been adopted in the Case of the Schooner "*Esperanza*." The request there made by the Fiscal of the Court of Admiralty, and which is expressed in such polite terms, seems to be tantamount to a proposition that the Undersigned should become the Prosecutor of the "*Esperanza*," in the *Spanish* Tribunals: but the Fiscal seems not to be aware that such an office is peculiarly foreign to the public situation of the Undersigned, who has no access whatever to the Vessel, or her Papers; and that, besides, it does not in any way fall within the range of the Instructions which have been given by their Government to His Majesty's Commissioners. His Excellency the Captain-General, however, need not be informed, that the duties of the Undersigned are confined to the exercise, under oath, of strict justice and impartiality in the execution of the Treaty for the abolition of the Slave-trade; to giving the British Government notice of every public event that appears to be an infraction of this solemn Compact; and to making His Excellency the Captain General previously acquainted with every such apparent infraction, and with the intention of the Undersigned to give such notice to his Government. Perhaps, therefore, His Excellency will have the goodness to state to the Officer Second in Command over the Naval Forces on this Station, that the public functions of His Britannick Majesty's Commissioner in this City are those of a Member of the Mixed Commission, and consequently entirely judicial, except with respect to the aforesaid Communications, which he is instructed to make to His Excellency the Captain General, as the immediate Representative here of His Catholic Majesty. The Undersigned, in his separate capacity, is furnished with no authority whatever to communicate officially with any other of the Local Authorities; he need scarcely say, that it has ever been his most anxious wish to abstain from any interference in the internal Regulations of the Island, with which of course he has not the least concern, but were he even otherwise in-

clined, it would be impossible for him, without exceeding the bounds of his Commission, to become a Prosecutor in the *Spanish* Courts for an offence against the Royal Orders of His Catholic Majesty. In the Tribunal before which the "*Esperanza*" is now arraigned for an infraction of the *Spanish* Laws, His Excellency the Captain General will feel, that a *British* Commissioner and Judge, is, of all others, at once the least likely person to be able to produce Evidence, and the most improper Individual to become a publick Prosecutor.

In this *Sanish* Case it would appear, that the Note which the Undersigned had the honour to address to His Excellency on the 11th Instant, and which merely announces his intention to report the arrival of the "*Esperanza*" to his Government, has finally led to her Seizure, and to the arrest of the Crew. If such a proceeding, with respect to this particular Vessel, has been grounded on any peculiarly flagrant facts having already appeared against her in the proper Court, and distinguished her Case from that of other Vessels arriving under similar circumstances, the Undersigned will feel obliged by their being made known to him, with the result of the whole affair. But the Undersigned, for the reasons abovementioned, must be allowed to decline all direct interference with the Court of Admiralty, while at the same time he is happy to have thus an opportunity of protesting every possible respect for that high Tribunal, and for the character of the Members who compose it.

In order, however, that His Excellency the Captain General may not for a moment imagine that, in thus refusing, because in fact it is beyond the limits of his duty, to become a Prosecutor in the Court of Admiralty, the Undersigned has, on slight grounds, determined to report the arrival of the "*Esperanza*" to His Majesty's Government, he begs leave to detail for His Excellency's information the various circumstances that have served to occasion in his mind a perfect conviction of her guilt.

In the first place, this Vessel was fitted out publicly in the Port of the Havana as a Slave-trader, and was pointed out to the Undersigned in the Harbour as intended for that destination some time previously to her sailing; indeed, the Undersigned may observe, that the construction and fitting up of Slave-vessels are so peculiar, and so ill adapted for any legal traffick, that it is impossible for any person, in the habit of viewing shipping, to entertain the least doubt as to the guilty object of the Vessels, even were any secret made in the Port of their destination, which the Undersigned must say is never the case. This Schooner, so fitted up for the reception of Slaves, sailed on the 25th December last, (as was publicly notified at the time), for the Coast of Africa, and specially for a Place on that Coast, to which it would argue the greatest ignorance of geography, and of the actual state of general Commerce, to suppose that any Havana Vessel can ever proceed, unless in order to procure Slaves. She is then absent about 6 Months, and, returning into the Havana on the 9th Instant, is publicly notified to be from St. Thomas in 60 days in ballast, consigned to the Captain. Immediately, moreover, it is stated in the Havana, without any attempt at secrecy, that she has succeeded in landing about 270 Slaves. Indeed it well deserves remark, that were not Slave-vessels peculiarly constructed, and notoriously destined for this illicit traffick in the eyes of every person who visits the Port, it would still be impossible to understand how so many Vessels can almost every day sail for the Coast of Africa, and so regularly return into Port in ballast, did they not previously land Slaves on the Coasts of this Island; 1 or 2 Vessels might perhaps be conceived to make an unsuccessful Voyage to Africa, although it is difficult to divine what they could have intended to bring from thence to a Place like the Havana, except Slaves; but that so considerable a portion of the *Spanish* Vessels sailing from this Port, should prefer following this unlucky example to all others, and should obstinately thus prosecute a losing trade, by sailing constantly from Africa in ballast, is beyond the utmost reach of credibility.

With respect indeed to the "*Esperanza*," there is another strong fact, of a more peculiar nature. She came into Port at a moment that His Britannick Majesty's Ship "*Grasshopper*" was already there anchored, and was immediately recognized by her as a Slave-vessel that had a few days previously escaped detention by the merest accident; so near had the "*Grasshopper*" gained upon her after a chase, that the Boats were even twice out in order to take possession of her, and her Master and Crew best know by how slight a chance she was not brought before the Mixed Commission. The Undersigned was informed by Lieutenant Warren, who had the Command of the Boats, that he, as well as the Officers and men under his command, immediately recognized her when she entered the Harbour, and were ready to identify her.

Such were the various grounds on which the Undersigned resolved to report the arrival of the "*Esperanza*" to His Majesty's Government, and accordingly, in pursuance of his Instructions, he had the honour to acquaint His Excellency the Captain General with his intention, in order that any circumstances which, after the proper investigation, happen to be known in favour of this Vessel, might be forwarded to England, together with the charge against her: as she is now amenable solely to the insulted Laws of her Country, here the duty of the Undersigned necessarily ceases, except so far as His Excellency may favour him with any further information, as to the ultimate decision of the Court of Admiralty, for the purpose of being transmitted to the British Government.

The Undersigned may, however, take this opportunity of remarking, that should His Excellency the Captain General deem it necessary to have the Affidavit of any of the Officers or men of the "*Grasshopper*," he will take the earliest opportunity of procuring a detail of those facts respecting the "*Esperanza*," which have been, without doubt, already submitted by Captain Crawford, for the information of His Royal Highness the Lord High Admiral.

The Undersigned avails himself, &c.

His Excellency the Captain General,

(Signed) W. S. MACLEAY.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

*Havana, July 30, 1828.*

IN my Despatch of the 11th Instant, I had the honour to give a brief account of the Capture, by His Majesty's Sloop "Grasshopper," of the "Xerxes," Slave-vessel, of 138 tons, and having on board 405 Bozal Negroes. I now proceed to lay before your Lordship the various Papers connected with the condemnation of this Vessel by the Mixed Commission.

The Master of the "Xerxes" when taken, having declared to the Captors, that at that moment he had 408 Slaves on board, 21 having died since he left the Coast of Africa, Captain Crawford on his arrival in Port addressed Letters, founded on this Statement of the Master, to the Mixed Commission, and to me, announcing that he had 408 Negroes on board the detained Vessel. On my requesting, however, that, in compliance with the usual custom, the number of each sex should be distinguished, and those sick particularly separated from the healthy, it was found that only 406 Negroes could have been on board at the period of Capture, of whom 1 was claimed by the Master of the "Xerxes" as his servant.

The 2 *Spanish* Commissioners sat with me in Court daily from the 7th to the 12th Instant, inclusive, on which last day the Sentence of Condemnation was pronounced.

The "Xerxes" sailed from this Port on the 10th of February last, for the Coast of Africa, and having taken on board her Cargo of Slaves in the River Bonny, left it on the 4th of May last. On the 26th of June she was first descried by the "Grasshopper," nearing the Coast of this Island, and after an arduous chase was taken possession of, nearly in the middle of the Gulf of Mexico.

The only difficulty that presented itself in the course of these proceedings was, with respect to a Negro boy, about 12 or 14 years old, who was comprised among the 401 Negroes reckoned by the Captor to be on board at the time they were classed, according to my request, which 401, together with 5 dead in the interval between the detention and their arrival in Port, made the whole number captured to be 406, as above-mentioned.

Every *Spanish* Vessel previously to leaving the Harbour, is supplied *gratis* by the *Comandancia de Matriculas*, with a Paper called the Rol del Equipage, or Register of the Crew. In this Paper licence is given for every particular Voyage to the Vessel therein named, the tonnage and armed force of which are specially described. The Officers and Crew are also divided into classes according to the nomenclature used in the *Spanish* Sea service, and their names and birth-places set forth at full length. At the end of the List are inserted some "Regulations for the guidance of the Captains and Officers of *Spanish* Merchant Ships belonging to the Island of Cuba," among which we find the following, viz.:—"The Captain shall also take no person into his Ship without having his name entered on the Register, even although such Passengers may be furnished with Passports from Governors or other competent Authorities." Now the name of the boy, Manuel Perez, not being in this Register, Captain Crawford, in his Letter to the Mixed Commission, and also in his Declaration, Copies of which are herewith enclosed, included him among the other Slaves found on board. Immediately on receiving Captain Crawford's Report, on the Night of the 5th, I had, in the usual manner, placed the Crew of the "Xerxes" at the disposal of the Captain General. I have the honour to enclose a Translation of His Excellency's Letter, announcing that he would not only take charge of the Crew, but also of the Negroes, in pursuance of which I furnished the persons therein named, with the necessary authority to Captain Crawford, for delivering them up. During the sitting of the Court on the 8th Instant, and while the Master, D. Felipe Rebel, was under examination, a Certificate, signed by Lieutenant Smith, and Mr. White, Midshipman, the 2 Officers who had charge of the Slave-vessel, was handed to me, and announced the clandestine escape of the Negro-boy, Manuel Perez,

at the time of removing the Crew. Of course I seized the opportunity of making enquiries of the Master of the "Xerxes" respecting him. This man readily confessed that he had given the boy in charge to a Don Francisco Claro, but persisted in saying that he had taken him from the "Xerxes" publicly, and moreover with the permission of the Prize-Master, Lieutenant Smith. The Court immediately then issued a Decree, ordering D. Francisco Claro to hold the boy at their disposal. These circumstances originating, to say the least, in great neglect on the part of the English Sentinels, gave rise to a very long investigation, in which not only the Mate and Surgeon of the Slave-vessel, with Lieutenant Smith and Mr. White, were examined, but the boy himself, as well as D. Francisco Claro, who had charge of him, and D. Jozé Gomez, who swore that he had sold him to the Master previous to this Voyage of the "Xerxes." The result was, that, with the other Members of the Court, I became convinced that the boy could not have been brought from Africa this Voyage, for the first time, and that in fact, he was the Master's servant, taken out with him from the Havana. This opinion was less grounded on the Evidence of the Master, Mate and Surgeon of the Slave-vessel, or even on that of D. Francisco Claro, or D. Jozé Gomez, than on the intelligence and manner of the boy himself, who readily answered, in *Spanish*, all the questions put to him, and besides had none of the awkwardness of a Negro arrived for the first time from the Coast of Africa.

The question for the Court, therefore, to consider was, whether the circumstance of this boy's name not being inserted in the *Rol* was sufficient to entitle him to emancipation. Now it was manifest, that, although this omission was a contravention of the *Spanish* Laws, it was no infraction of the Treaty, which nowhere alludes to the *Rol del Equipage*. Considered, moreover, as a servant taken out from the Havana, as this Negro undoubtedly was, he could not be said to be on board as an object of commerce, and therefore could not fall within the provisions of the 7th Article of the Regulations, which emancipates only "the Slaves who may be on board as objects of commerce." The clearest mode of viewing this question seemed to me to result, from throwing aside the consideration of the boy being found on board a Vessel justly detained, and from then enquiring whether Slaves of this kind being discovered on board any other *Spanish* Vessel, would of themselves subject her to condemnation. The answer, founded on the 1st Article of the Instructions, manifestly is, that they would not, and therefore the taking this Slave to Sea, although on an illegal Voyage, was not in itself illegal according to the Treaty.

Captain Crawford very properly included him in the number of Negroes forming the Cargo of the "Xerxes," not merely on account of his name not being found in the *Rol*, but because an English Sailor, employed to examine the boy in *Spanish*, had reported him as ignorant of that language. But of this latter circumstance the Court itself, to which the decision of the question properly belonged, had best the means of judging, and they came to a very different conclusion.

In judging it thus to be my duty to restore the boy to his Master, I insisted, however, that the latter should be punished for a breach of Marine Law that might lead to frauds the most injurious to the object of the Treaty; and I thought it right to point out to my Colleagues the consequences that might arise from the *Spanish* Regulations, with respect to the *Rol del Equipage*, not being strictly attended to, as this Document, although not expressly required by the Treaty, had hitherto been considered by British Officers to offer the most accurate and legal method of distinguishing in a Slave-vessel, where Negro Sailors are often employed, the Crew from the Cargo. I urged that it was in a particular manner essential to the interests of legal *Spanish* commerce, that the *Rol* should not lose this important character in the eyes of our Cruizers, and, by being tacitly declared null and of no value by the Mixed Commission, be the means, perhaps, of bringing Vessels before the Court, that would only be suspicious from having Negro Sailors on board. The *Spanish* Commissioners agreed with me, and the Court determined not only to allude to the circumstance in the Sentence, but to transmit a Copy of it to the Officer who has the direction of the particular Department of the Marine, under which the

Register Office is comprised. This Officer, in his answer to the Court, would make it appear, that he has misunderstood their intention, and imagined that their object was to reflect on his own conduct in allowing Felipe Rebel to sail with an individual not named in the Register. Copies of this Correspondence are enclosed, as well as of a Letter which the *Spanish* Commissioners, in their separate capacity, wrote to him afterwards. I did not think it proper to join in this last Letter, because it conveys what might have appeared from me to be a menace, and because the Mixed Commission, in their Letter to Admiral Gaston, dated 23d June 1824, have declared that they ought not to hold direct communication with any other than the Chief Authority of the Island.

I am sure I need not call your Lordship's attention to the conduct of my Colleagues on this occasion; it is, as usual, demonstrative of the utmost good faith, as well as of their desire to carry into execution the stipulations of the Treaty in the most friendly manner. This is the first Case, also, of adjudication in which our new Secretary, D. Juan Francisco Cascales, has been engaged, and I cannot refrain from expressing here my high sense of his industry, impartiality, and legal knowledge.

I have the honour to enclose an Abstract of the Evidence given in Court, and Copies of our Correspondence with the Captain General, and of the Sentence.

These Negroes have arrived in a very unhealthy state, and, notwithstanding the Captain General has directed great medical attention to be shewn to them, their number has been reduced by death to 385. I enclose Copies of Certificates of the deaths that took place while they were in the charge of Captain Crawford.

I have heard that the Ayuntamiento, in their alarm at so many Negroes being emancipated at once, petitioned the Governor to allow the proposition of the *Spanish* Government to be carried forthwith into effect, with respect to their removal to Europe, and to defray the expence proposed to the Intendant General by an additional duty on goods imported. The latter, however, refused his consent, at present, to any new shackles on the Commerce of Cuba, and the Captain General informed me, the other day, that he is apprenticing out the Negroes as usual.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

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First Enclosure in No. 97.

*Captain Crawford to the Mixed Commission.*

HON. GENTLEMEN,

*His Britannick Majesty's Sloop "Grasshopper,"*  
*Havana, July 5, 1828.*

I BEG leave to inform you, that I have arrived in this Port, in His Majesty's Sloop "Grasshopper" under my command, with the "*Xrres*," *Spanish* Schooner, detained in the Gulf of Mexico, after a chase of about 26 hours, from off the Colorados, and having on board at the time 408 Slaves, from the Coast of Africa.

For all further information with respect to this detention, I have to refer you to the Documents delivered by me to the British Commissioner, and which consist of my Affidavits and the Papers of the Slave-vessel, all duly endorsed by me.

I have the honour to be, &c.

(Signed) A. CRAWFORD,  
 Commander.

*His Excellency the Intendant, and the other*  
*Hon. Members of the Mixed Commission.*

## Second Enclosure in No. 97.

*Declaration of the Captor of the Spanish Schooner "Xerxes."*

I, ABRAHAM CRAWFORD, Esq., Commander of His Britannick Majesty's Ship the "Grasshopper," hereby declare, that, on the 27th day of June last, being in or about Latitude 23. 22. N, and Longitude 87. 21 W., I detained the Schooner named the "Xerxes," sailing under Spanish Colours, armed with 5 guns 18-pounders, commanded by Don Felipe Rebel, who declared her to be bound from the River Bonny, on the Coast of Africa, to the Island of Cuba, with a Crew consisting of 44 men, and 2 Passengers, whose names, as declared by them respectively, are inserted in a List, to be found among the Papers of the Vessel, and having on board 408 Slaves, according to the Statement of the Captain and Officers of the "Xerxes," but which are found to be 406 upon being carefully counted, said to have been taken on board in the River Bonny on the 4th day of May 1828, and are enumerated as follows, viz.

	Healthy.	Sickly.
Men - - - -	217	13
Women - - -	37	13
Boys - - - -	45	12
Girls - - - -	41	23

I do further declare, that the said Schooner appeared to be seaworthy, and was supplied with a sufficient stock of water and provisions, for the support of the said Negroes and Crew, on their destined Voyage to Cuba.

I do further declare, that 5 of the said Negroes have died since the period of the said Vessel's detention.

And I further declare, that the following Papers of the "Xerxes" were given up to me by the Master, Don Felipe Rebel, viz. :—

- 1 Rol del Equipage.
- 2 Real Pasaporte.
- 3 Una Contraseña.
- 4 Log-book.
- 5 Book of Nautical Calculations.

In all, 5 Papers.

(Signed)

A CRAWFORD, Commander.

Witnessed.

(Signed)

WM. WARREN, Lieutenant.

PATR. MAGOVERN, Surgeon.

*Additional Certificate.*

I HEREBY certify, that this 7th day of July 1828, while clearing a little the "Xerxes," in consequence of delivering up the Crew to the Captain General, 3 Documents, viz. 1st, a Log-book; 2d, a Diario de Bitacora; and, 3d, a Paper of Nautical Calculations; were found concealed on board.

(Signed)

A. CRAWFORD, Commander.

Havana.

## Third Enclosure in No. 97.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, July 7, 1828.

WITH your Letter of the 5th Instant, I received the Letter, of the same date, addressed to you by Captain Crawford, of His Britannick Majesty's Ship "Grasshopper," announcing the Capture of the Spanish Schooner "Xerxes," with 408 Negroes on board, and, in compliance with your request, I have to inform you, that I have issued the necessary orders, directing D. Francisco Seydel, Adjutant Major of the City, to go on board the Schooner, with one of the companies of reserve, and to take charge of her Crew, and then conduct them to the publick Prison, where they may remain at the disposal of the Mixed Commission during the ensuing proceedings; and, that due effect may be given to these measures, I hope you will give the necessary orders for their being delivered up to him.

I take, also, this opportunity to inform you, that I have named D. Felipe Rodriguez for the charge of conducting to his barracon, and keeping there in deposit, all the captured Negroes, and that, in consequence I have directed him to-day forthwith to present himself to you, and

arrange about their disembarkation, and then to keep them at the disposal of the Mixed Commission, until the Definitive Sentence shall be issued, in order that, if they should be declared free, the distribution of them may take place, according to the established Regulations.

May God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed)

F. D. VIVES.

#### Fourth Enclosure in No. 97.

##### *Declaration of Lieutenant W. S. Smith, and Mr. G. W. White.*

WE, William Sydney Smith, Lieutenant of His Majesty's Sloop "Grasshopper," and George William White, Mate of the same, hereby certify, that a Slave lad has escaped from the Schooner "Xerxes." He was seen Yesterday Morning at 9 o'Clock by us, and escaped from the Vessel half an hour after 12. We also declare, that in the short interval between the above specified hours, namely, 3 hours and a half, the only method by which he could have escaped must have been that of entering the Launch that came alongside to receive the custody of the Spanish Crew of the "Xerxes;" and he must have done this, notwithstanding our attendance and the vigilance of the English Sentries, planted along the Vessel's gangway. The lad was in attendance as servant of D. Felipe Rebel on board, and had been claimed by him as his property—a claim not allowed, as his name did not appear on the Rol del Equipage.

Given under our hands, on board the Schooner "Xerxes," in  
Havana Harbour, this 8th day of July 1828.

(Signed)

WILLIAM SYDNEY SMITH, Lieut. of H.M.S. "Grasshopper."  
G. W. WHITE, Mate of H.M.S. "Grasshopper."

#### Fifth Enclosure in No. 97.

##### *Abstract of the Evidence in the Case of the Spanish Schooner "Xerxes."*

CAPTAIN ABRAHAM CRAWFORD produced his Instructions, and identified the Papers of the "Xerxes," as well those delivered to him by the Master of the "Xerxes," as those afterwards found concealed on board.

In addition to the Evidence of Captain Crawford, as set forth in his Declaration and Certificate, Don Felipe Rebel deposed, that he is a Native of Vigo, unmarried, aged 28, and a Catholick; that he is Master of the Spanish Schooner "Xerxes," which has been brought into this Port by the Captain of His Britannick Majesty's Corvette "Grasshopper," on account of having Bozal Negroes on board; that he sailed from this Port of Havana in the Month of February last, bound to the Isla de Principe, with a Cargo of Merchandize and Silver, for the purpose of trading in ivory and palm-oil; that not finding these articles at Principe, he continued his Voyage to the Coast of Africa and the Country bordering on the River Bonny, where he took in his Cargo of Bozal Negroes, by reason of having been deceived by the King of that Country, who would not provide him with the ivory and palm-oil, according to agreement, obliging him to take the aforesaid Negroes instead; that he took on board 429 Negroes; that on his return he touched at no Place, but made for this Island, without having any particular part of the Coast in view; that at the time of detention he might have had more than 408 Negroes on board, and that afterwards some died. That Yesterday, between 10 and 12 o'Clock, A.M., when the Safety-boat of the City arrived at the Schooner, in order to take the Officers and Crew on Shore, and to the House of the Commandant-General of the Marine, this Deponent claimed a Negro-boy, his Slave, named Manuel Perez, as not being of the number of those embarked at the River Bonny, but as a Slave who had been taken by the Deponent from this Port with him in the capacity of Servant, without observing that he had omitted to place his name on the Rol del Equipage; that the Officer in command of the Prize, certain of the truth of this story, by the questions he then made, consented to deliver him up, and thus the said Servant-boy is actually now in the Village of Casa Blanca, and in the Dwelling-house of Don Francisco Claro; that the Deponent is the Master, Owner, and Fitter-out of the said Schooner; that the Schooner was armed with an 18-pounder, 4 other guns, 66 fire-arms, of various classes, 60 swords, and corresponding ammunition; that all the Cargo remaining at the time of detention consisted of 170 or 200 common coloured handkerchiefs, which remained in the Cabin of the Schooner, when the Deponent left her; that of the Papers produced to him, he recognizes the following, viz.:—1, Rol; 2, Royal Passport; and 3, Contraseña; as belonging to him as Master of the Schooner; that the Papers numbered 4 to 8 belong to the Mate D. José Mauri.

D. José Mauri deposed, that he is a Native of Palamos, in Catalonia, unmarried, aged 41, and a Catholick; that he was Mate of the "Xerxes" at the time of her detention by the Commander of His Britannick Majesty's Ship "Grasshopper; that the "Xerxes" was detained in the Gulf of Campeachy after a chase of 26 hours, and was immediately conducted to this Port on account of having on board a Cargo of Bozal Negroes; that the Deponent engaged in February last as First Mate, with no other person than D. Felipe Rebel, Master and Owner of the "Xerxes;" that he sailed from the Havana for the Isla de Principe; and that having been



unable to find a Cargo there, they proceeded to the Coast of Africa, and anchored in the River Bonny, and the King of the neighbouring Territory, not possessing any ivory or palm-oil in exchange for the Merchandize on board the "Xerxes," gave them Negroes, which they took on board, in order to return as quickly as possible, and not to expose themselves to the fevers so prevalent on that Coast; that the Cargo taken from the Havana consisted of common handkerchiefs of various colours, and muslins; and that the Deponent knows not whether there is any part of the Cargo remaining; that the "Xerxes" took on board 429 Negroes; that they touched at no Place on their return; that at the time of detention there might be, in the opinion of the Deponent, 408 Negroes on board, and that he can give no account of what passed on board the "Xerxes" after her detention, because he was immediately removed on board the "Grasshopper;" that the Safety-boat came to take on Shore, first, those of the Crew of the "Xerxes" who were on board the Ship of War; and that when it came the second time, the Deponent was occupied in collecting a few effects, and on this account, as well as the quantity of people in the Boat, he did not remark any Negro in it: that this Deponent knows, that, on leaving the Havana in February last, the "Xerxes" had 3 Negroes on board, 2 entered on the "Rol del Equipage," and 1 as Servant to the Captain, named Manuel Perez, who was a Slave to the said Captain, but whom the Deponent never knew before he embarked in the "Xerxes; that the 3 Papers, which are the Rol, Passport, and Contraseña, are the same with which D. Felipe Rebel sailed, and the 5 others, the Log-books, Journal and Observations that the Deponent took charge of as First Mate.

D. Joaquin Martel deposed, that he is a Native of the Havana, unmarried, aged 24, a Catholic, and by profession a Surgeon, licensed by the Royal Protomedicato of this City; that he sailed in the said capacity from the Havana to the Isla de Principe, in the "Xerxes;" that for want of finding a proper Cargo, D. Felipe Rebel continued his Voyage to the Coast of Africa, and to the District bordering on the River Bonny, where he delivered to the King of the Country all the merchandize he had brought from the Havana; that there not being in that Place ivory or palm-oil, he was under the necessity of taking Bozal Negroes on board, to the number of 429; that the "Xerxes" sailed from the River Bonny on the 4th May last, and touched at no Place on her Voyage home; that on the 27th June, being near *Los Colorados*, they were discovered by His Britannick Majesty's Ship "Grasshopper;" that at the time of detention, which took place on the 28th June, there were in existence, on board the "Xerxes" 408 Negroes; that the Cargo the "Xerxes" took from this Port consisted of handkerchiefs and muslins, and that a very small part of the Cargo remained at the time of detention; that he acknowledged the Certificate, dated Havana, 7th June; and given in by Captain Crawford to the Court to be his, and begs to observe, that on the Voyage from the Coast of Africa to the *Colorados*, where they were detained, only 21 Negroes died, but as on the day of the Capture, five more Negroes died, this Deponent included them in his Certificate at the instance of the English Captain, and thus made up the total number of 26 Negroes dead, while the Deponent had charge of the health of the "Xerxes;" that on the day the Safety-boat came for the Crew, the Deponent went into her with a Negro, named Manuel Perez, a Slave of D. Felipe Rebel, who sailed from the Havana with him as servant, and who, consequently, is not of the number of those Slaves embarked by the "Xerxes" on the Coast of Africa; that the Deponent is ignorant now where this Slave is; that the said Negro-boy went into the Safety-boat publicly, without any disguise, and without being challenged by the English Sentinel that was there, having in his hand a bundle of linen belonging to his Master, D. Felipe Rebel; that this Deponent does not know whether or not the Prize Master gave permission to the said Negro-boy to get into the Safety-boat; that the Second Mate now cited to give his evidence in Court, has been suddenly taken ill, to this Deponent's knowledge, with an infectious fever, under which he now labours in the publick Prison,

Lieutenant William Sydney Smith deposed, that he is First Lieutenant of the "Grasshopper," that he signed the Certificate now produced, and which was presented Yesterday in Court, with reference to a Negro-boy escaped from the "Xerxes;" that certainly the Captain, Rebel, at 3 o'Clock Yesterday Morning, spoke to the Deponent to be allowed to take with him his Servant, Manuel Perez, as being his own Slave; that having consulted Captain Crawford on the subject, the latter told him to examine whether the Boy was able to speak *Spanish*, that, in consequence, through the medium of an English Sailor of the "Grasshopper," who can make himself understood in *Spanish*, this Deponent made the experiment, but this Sailor not finding the Boy capable of answering his questions, communicated the same to Captain Crawford, when this Deponent received the order not to let the Boy leave the Ship; that the Government Launch arriving afterwards for the Officers and Crew of the "Xerxes," this Deponent observed, after her departure, that the said Negro was missing, and presumed that he was with the Captain, who, notwithstanding the precautions taken, had succeeded in hiding him in the midst of the confusion of embarking the Crew.

George William White deposed, that he is Midshipman of His Britannick Majesty's Ship "Grasshopper," that he recognizes the Signature at the foot of the Certificate now produced to be his, and swears to the truth of the contents of the same; that the Master of the "Xerxes" never spoke to him on the subject of Manuel Perez, nor does he know that he spoke with any one, and that, therefore, this Deponent cannot possibly have either consented or refused to allow him to take this Boy on Shore with him.

Lieutenant William Sydney Smith again sworn; deposed to the truth of his former Evidence, and that Manuel Perez went on Shore without the knowledge or permission of the Deponent.

Don Felipe Rebel again sworn; deposed to the truth of his former Evidence, and that the Deponent, in consequence of several conversations with Lieutenant Smith, certainly understood that the latter had agreed to his taking his Slave with him, as a proof of which, the Negro was embarked publickly, without being challenged or impeded, and that if the Negro had not been of the Deponent's private property, and sold to him in the Havana, by D. Joze Gomez, a Resident in Casa Blanca, this Deponent would not have dared to claim him.

(Rebel was here confronted with Lieutenant Smith, the Prize Master of the "Xerxes," who, on hearing Rebel's Evidence read over to him, denied that the Negro could have been embarked in the Boat with publicity, as Rebel said, for the Sentinels had particular orders to stop him, and repeated that the success of the attempt must have been entirely owing to the confusion on board, at the moment of putting the Crew of the "Xerxes" into the Launch.)

Don Francisco Claro deposed, that he is a Native of Portugal, residing at Casa Blanca, married, aged 30, a Catholic, and by profession a Merchant; that he knows the Boy, Manuel Perez, for, having been on the Wharf of the Machine, to see the Master of the "Xerxes" disembark, the said Master requested of him to take charge in deposit of the Boy, that this Deponent took him with him to his House, and now has brought him with him into Court, in pursuance of the orders of His Excellency and the other Members of the Mixed Commission, as communicated to him by their Secretary, that, on the Morning of Rebel's departure from the Havana, this Deponent was on board the Schooner "Xerxes," breakfasting with him, and remarked that a Boy served at table, of the same size and appearance as Manuel Perez, but that this Deponent will not swear to his being the same; that Manuel Perez has served in the Deponent's House, and does what he is bid to do; that he speaks Spanish, but of course understands the language better than he can explain himself in it; that this Deponent has no interest himself in the Slave, but never considered that the Law could be applied to his emancipation.

(Here the Boy, Manuel Perez, apparently about 12 or 14 Years of Age, was introduced into Court, and a variety of different Questions asked in Spanish by the different Members, to which the Boy replied promptly, and sufficiently clear to make the Court come to the following determination:—

"That it appears in the judgment of His Excellency, and the other Members of this Court, that the Negro, Manuel Perez, having answered to the various questions put to him sufficiently clearly and distinctly, is not of the number of Bozal Negroes embarked last May by the "Xerxes" on the Coast of Africa, but that they do not consider him sufficiently aware of the nature of an oath to be able to give legal Evidence.")

Lieutenant William Sydney Smith, a third time sworn; deposed, that the Negro-boy now in Court was, to the best of his belief, Manuel Perez, who escaped from the "Xerxes" in the Boat that took away the Crew, but that the Deponent will not positively swear to him, on account of the faces of Negroes generally being, in his opinion, all so much alike.

George William White, Midshipman, a third time sworn; deposed, that the Negro-boy now in Court was Manuel Perez, the same who had escaped, and then positively identified him.

D. Joze Gomez deposed, that he is a Native of the Isla de Leon, resident in Casa Blanca, married, aged 35, a Catholic, and by profession a Merchant; that he sold to Felipe Rebel, a Negro-boy, named Manuel, some Weeks before the "Xerxes" sailed from the Coast of Africa; that this Deponent has not since seen the Boy; (here the Boy was produced,) that the Boy, now in Court, is the said Manuel.

(The Boy recognized in Court D. Joze Gomez as his former Master, and called him by his name, and knew his place of residence.)

Sixth Enclosure in No. 97.

(Translation.)

*The Captain General to the Mixed Commission.*

MOST EXCELLENT SIR, AND GENTLEMEN,

Havana, July 8, 1828.

THE Members of the Court of Health of this City write to me, under date of the 6th Instant, as follows:—

"Most Excellent Sir,—In compliance with our duty, we have been on board the Spanish Schooner "Xerxes," D. Felipe Rebel, Master, in order to examine the Crew and Negroes on board; and having, with the usual precautions, made the necessary investigation, we found that 2 of the Crew were grievously sick with a putrid fever, and in the last stage of life; that 12 Negroes were in the same state, in consequence of chronic dysentery; and that, in the multitude, many were observed with ophthalmia, or a venereal inflammation of the eyes; and that some were in a state of general debility, the remainder appearing sound in health and appearance. We were likewise informed, that 22 such Negroes had died; and 2, this very Morning, of a putrid dysentery; and that those who appeared so debilitated, were suffering under this malady. Taking all this into consideration, and making a difference between those diseases naturally contagious, we are of opinion, that these Negroes ought to remain all apart out of the City, the sound being separated from the sick; your Excellency placing the latter where they may receive the succour demanded by humanity, and the former where they may be safe from the influence of contagion. By such measures, the propagation of these maladies throughout the whole population will be prevented; for if, unfortunately, they were to spread, the consequences would be pernicious at the present moment, when almost the whole of this populous City have been weakened by the

epidemic fever, which has reigned for several Months, and are suffering also under other diseases now prevalent."

I transcribe the above Letter for the information of your Excellency, and the other Members of the Mixed Commission, because this day I have issued the necessary Orders for the said Negroes being conveyed to the Tile Manufactory of the late D Antonio Frias, which is situated on the skirts of the Castle of Chorrera, and directed that they there remain in charge and under the care of D. Felipe Rodriguez; so that, in this way, the pestilence may be removed from the City; for which purpose I have also directed that the Negroes be removed in Boats, by Sea, to the Mouth of the Chorrera, under the guard of one of the Companies of Reserve, to remain in the aforesaid place to abide the decision of the Mixed Commission.

God preserve you many Years.

(Signed) F. D. VIVES.

*His Excellency the Intendant,  
and the other Members of the Mixed Commission.*

Seventh Enclosure (A.) in No. 97. (Translation.)

*The Mixed Commission to the Captain General.*

MOST EXCELLENT SIR,

Havana, July 14, 1828.

BY the annexed certified Copy of the Definitive Sentence of this Mixed Commission, issued in virtue of the proceedings consequent upon the Capture of the Spanish Schooner "Xerxes," with a Cargo of Bozal Negroes, by the English Sloop of War "Grasshopper," your Excellency will perceive the detention of this Vessel is declared good and legal, and that the said Negroes are free from all slavery and captivity. In completion of its duty, the Court now proceeds to sign the various Certificates of Emancipation, in order to place them at the disposal of your Excellency, in the usual form.

God preserve your Excellency many Years.

(Signed)

CLAUDIO MARTINEZ DE PINILLOS:  
RAFAEL DE QUESADA.  
W. S. MACLEAY.

*His Excellency the Captain General.*

Seventh Enclosure (B.) in No. 97. (Translation.)

*Sentence of the Mixed Commission, in the Case of the Spanish Schooner  
"Xerxes."*

IN the ever most faithful City of the Havana, on the 12th of June 1828, His Excellency Don Claudio Martinez de Pinillos, Honorary Counsellor of State, Intendant General of Cuba, Sub-delegate Superintendent General of the Royal Revenues, and Commissary Judge of the Mixed Commission, and the Commissioners of Arbitration, Colonel Rafael de Quesada, and William Sharp Macleay, assembled together, by reason of the absence, with permission of his Government, of the British Commissary Judge; having taken into consideration the judicial proceedings consequent upon the Capture made by the English Corvette "Grasshopper," Captain Abraham Crawford, in the Gulf of Mexico, of the Spanish Merchant Schooner "Xerxes," Don Felipe Rebel, Captain, Master and Owner, with a Cargo of 406 Negroes on board at the time of detention; which Negroes, with the exception of 10, deceased previously to the 9th of this Month, have been all delivered up to the Spanish Authorities, with a Negro, named Manuel Perez, included by the English Captain in the said number of 406, on account of his name not being found in the Register of the Crew, but who is claimed by the Master of the "Xerxes" as his property. And it being fully proved by the declaration of the said Master, by the testimony of the several Witnesses examined, and by the Documents found by the Captor on board the Schooner, that she sailed from this Port the 10th of last February, with Papers and a Cargo for the *Isla de Principe*, and proceeded to the River Bonny, on the Coast of Africa, where she took on board 429 Slaves, who were reduced, by death during the passage, to the number of 405. And it being further proved that the said Negro, Manuel, was embarked by the Master of the Schooner before the departure of the "Xerxes" from this Port, and therefore is not of the number of those bought on the Coast of Africa, the said Commissioners, with due regard to the merits of the Cause, and according to the usual brief and summary mode of proceeding, adopted by the Mixed Commission in all such Cases, when the truth has been made manifest, do hereby declare that the Capture of the said Schooner "Xerxes," and of the 406 Negroes found on board (excepting only from this number the abovementioned Manuel, as the property of D Felipe Rebel, to whom he shall be returned by D. Francisco Claro, at present having him in deposit), is good and legal; and that the said Schooner, her Tackle and Apparel, and whatever else she may contain, as mentioned in the Inventory, are subject to confiscation, with the exception of the 395 Negroes remaining alive, who are declared to be free from all slavery and captivity. The said Commissioners accordingly direct, that the condemned Vessel, and all that belongs to her, be valued, under oath, by the principal Masters of the Royal Arsenal, who shall give a proper voucher to this effect; and that she shall be exposed to public auction, in the presence of the Auxiliary Notary of the *Real Hacienda*, D. Francisco José de Correr, in order that, being disposed of to the highest bidder, in the Auction Room of D. Bartholomew Barredo, the Proceeds may be applied to the benefit of the two Governments; the said Vessel being for the present placed in deposit with Don Jayme Andreu, who shall likewise swear faithfully to perform his duty, and shall receive her from the Captor.

according to formal Inventory : proceeding, moreover, without loss of time, to deliver, as is customary, to such of the aforesaid Negroes as may be living, their Certificates of Emancipation, by means of the Secretary, D. Juan Francisco Cascales ; and addressing an official Letter, with a certified Copy of the Sentence, to His Excellency the Captain General, in order that he may take the proper measures for that purpose.

The said Commissioners, in order to prevent for the future, as much as possible, the delays and difficulties which they have experienced in the Case of the Negro Manuel, in consequence of his not having been comprised in the Register of the aforesaid Schooner " Xerxes ;" and moreover, in order to obviate any means that might thus be taken to evade the prohibition of the Slave-trade from the Coast of Africa, shall address a Letter, with a certified Copy of this Sentence, and of the whole Declaration of D. Felipe Rebel, to the Officer Second in Command over the Naval Forces on this Station, in order that, in the use of his peculiar powers, he may take such measures as he may judge conducive to the said object. And by this their Decree, the Commissioners, definitively deciding, have thus provided, ordered, and signed, in the presence of their Secretary, who certifies.

(Signed)

CLAUDIO MARTINEZ DE PINILLOS.  
W. S. MACLEAY.  
RAFAEL DE QUESADA.

(Signed) JUAN FRANCISCO CASCALES, Secretary.

### Eighth Enclosure in No. 97.

#### *Certificates of the Deaths of Negroes on board the Spanish Schooner "Xerxes."*

I HEREBY certify that 3 Negro-men, composing part of the Cargo of the Spanish Schooner " Xerxes," died during the interval between the 27th June 1828, when she was placed under my charge, to the date hereof.

Given under my hand, on board the Schooner " Xerxes, at Sea, this 1st July 1828.

(Signed)

WM. WARREN,  
Lieutenant of His Majesty's Sloop the " Grasshopper."

I hereby certify that 7 Negroes, namely. 6 Men and 1 Boy, composing part of the Cargo of the Spanish Schooner " Xerxes," died during the interval between the 1st July 1828, when she was placed under my charge, to the date hereof, when the remainder of the Negroes were delivered to the Spanish Authorities.

Given under my hand, on board the Schooner " Xerxes, in Havana Harbour, this 9th day of July 1828.

(Signed)

WM. SYDNEY SMITH,  
Lieutenant of His Majesty's Ship " Grasshopper."

There was an additional Certificate to the same effect presented by D. Joaquim Martel, Surgeon of the " Xerxes," which is alluded to by him in his Evidence.

### Ninth Enclosure in No. 97.

(Translation.)

#### *The Mixed Commission to the Officer Second in Command over the Naval Forces of Cuba.*

SIR,

Havana, July 14, 1828.

WE enclose a certified Copy of the Definitive Sentence issued by this Mixed Commission, with respect to the Capture of the Spanish Schooner "Xerxes," with a Cargo of Bozal Negroes on board, and of the Evidence given in the course of the said Trial by the late Master of the Vessel, D. Felipe Rebel, wherein he confesses to have carried with him from this Port a Negro-slave, Manuel Perez, in quality of Servant, without his name being included in the Rol del Equipage, and we request that you will make use of your peculiar powers as far as possible, to take the necessary measures to prevent occurrences of a similar nature in future—occurrences that may be injurious to the exact execution of the Treaty between Their Catholick and Britaunnick Majesties, which prohibits the Traffick in Slaves from the Coast of Africa.

God preserve you many Years.

(Signed)

CLAUDIO MARTINEZ DE PINILLOS.  
W. S. MACLEAY.  
RAFAEL DE QUESADA.

H. E. Don J. B. Topete.

Tenth Enclosure in No. 97.

(Translation.)

*The Officer Second in Command over the Naval Forces of Cuba, to the Mixed Commission.*

MOST EXCELLENT SIR, AND GENTLEMEN,

Havana, July 16, 1828.

I HAVE received the certified Copy which you have been pleased to transmit to me, of the Definitive Sentence issued by the Mixed Commission, with respect to the Capture of the Spanish Schooner "Kerres," with a Cargo of Bozal Negroes on board, and also of the Declaration given by D. Felipe Rebel, wherein he confesses to have carried from this Port the Negro Manuel, his Slave, in capacity of Servant, without his name being included in the Registers; and, with reference to your request, that I should, in the use of my peculiar powers, take the necessary means for preventing similar offences in future, offences that might prove injurious to the exact fulfilment of the Treaty between Their Catholick and Britannick Majesties, prohibiting the Traffick in Slaves from the Coast of Africa, I ought to declare to you, that no foresight on my part could have prevented this occurrence, since the business of the Subordinate Department in such Cases, being confined to the taking descriptions and names of those Individuals whom the Masters may present, if these latter clandestinely embark or conceal any Individual not comprized in the Register, the responsibility of the offence falls on them alone.

This is all I can say on the subject, in answer to your Letter.

God preserve you many Years.

His Excellency the Intendant,  
and the other Members of the Mixed Commission.

(Signed) JUAN. BAP. TOPEYE.

Eleventh Enclosure in No. 97.

(Translation.)

*The Spanish Commissioners to the Officer Second in Command over the Naval Forces of Cuba.*

SIR,

Havana, July 29, 1828.

WE have taken into consideration the Letter which you addressed to the Mixed Commission on the 16th Instant, in consequence of having received from it a certified Copy of the Sentence pronounced by it against the Spanish Merchant Schooner "Kerres," Captain Felipe Rebel. This Communication was made to you, not only because it was proved that the said Felipe Rebel had violated the Treaty for the abolition of the Slave-trade, by coming from Africa with a Cargo of Bozal Negroes, but because he had clandestinely carried his Slave out with him, without entering his name on the Rol, which circumstance alone might have been sufficient to have compromised him with the English Cruizers employed to repress this illicit traffick on the Coast of Africa, even although Rebel had not been employed in it, and had only made a legal Voyage to the Isla de Principe, for which Place he cleared out.

We well know that as the Comandancia de Matriculas (or Register Office) does no more, as you say, than enter on the Rol the Sailors that their Captains present as forming their Crews, it must be very difficult to prevent them from afterwards taking others clandestinely on board, but our anxiety and desires on this subject are limited to increase your caution, in order that this abuse may be as far as possible prevented, and this even for the interest of our own commerce, since if it be not considered of the utmost importance to enter on the Register the Negro Slaves who go to Sea as servants, some Vessels may be detained, and grievously prejudiced, in their Voyages, although no ways concerned in the prohibited traffick.

We hope, therefore, that your mature consideration of the circumstance that has chiefly guided us in this affair, namely, the desire to ward off evil from our Merchant Navy, will be sufficient of itself to make you understand the danger to which it is exposed, and that you will renew the orders of vigilance on this head, and that you will render effective the responsibility of every Captain who infringes them, since no one can pretend to be ignorant of Regulations which are even inserted in the Rol.

God preserve you many Years.

(Signed) CLAUDIO MARTINEZ DE PINILLOS.  
RAFAEL DE QUESADA.

His Excellency Don J. B. Topete.

No. 98.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

Havana, August 4, 1828.

ON the 15th Ultimo, the Schooner "Georgiana," D. Domingo Borell, Master, sailed for the Coast of Africa.

On the 28th Ultimo, the Schooner "Favorite," D. Antonio Belancourt,

2 P

Master, cleared out for the Island of St. Thomas, on the African Coast; and the Schooner "*Segun el Tiempo*," D. José Eseardo, Master, for the Isla de Principe."

On the 1st Instant, the Ship "*Amistad*," D. Manuel Buenamerte Gonzalez, Master; the Brig "*Triton*," D. Antonio Jorge Gonzalez; the Schooner "*Golondrina*," D. Antonio Carabajal; the Schooner "*Balzain*," D. Roque Quintana; the Schooner "*Triple Union*," D. Santiago Macsana; all sailed for the Coast of Africa.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

### No. 99.

*W. S. Macleay, Esq. to The Earl of Dudley.—(Received September 27.)*

MY LORD,

*Havana, August 12, 1828.*

DON RAFAEL GONZALEZ Y BARRANCO, whose Appointment as Deputy Secretary of the Mixed Commission, was approved of by the late Mr. Secretary Canning, having thought proper to resign his Situation on the 7th Ultimo, the Mixed Commission transmitted his Resignation to the Captain General, requesting His Excellency, at the same time, to appoint D. Andres Cascales, the Son of our Secretary, to fill up the vacant Office; as, independently of the aid this Gentlemen has been to the Commission in the late Affair of the "*Xerxes*," the circumstance of his being always at the side of his Father, makes his Appointment as Successor to D. Rafael Gonzalez y Barranco particularly desirable.

The Captain General, in his Answer, has acceded to the request of the Mixed Commission, and named D. Andres Cascales to the vacant Office, until the pleasure of His Catholick Majesty shall be known on the subject.

I enclose a Copy of His Excellency's Answer.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

Enclosure in No. 99.

(Translation.)

### *The Captain General to the Mixed Commission:*

MOST EXCELLENT SIR, AND GENTLEMEN,

*Havana, August 4, 1828.*

IN reference to your Letter of the 29th Ultimo, in which you have been pleased to enclose me the request of D. Rafael Gonzalez y Barranco, that his resignation of the Office of Assistant Secretary of the Mixed Commission should be admitted, for the reasons set forth in his Letter, I now inform you, that I hereby permit him to resign, and I name for the execution of his Office, until the pleasure of His Majesty, to whom I submit the affair, be known, D. Andres Cascales, Bachelor of Law, and thus, as far as lies in my power, comply with your request.

God preserve you many Years.

*His Excellency the Intendant,*  
*and the other Members of the Mixed Commission.*

(Signed)

F. D. VIVBS.

### No. 100.

*The Earl of Aberdeen to W. S. Macleay, Esq.*

SIR,

*Foreign Office, October 22, 1828.*

YOUR Despatches to the 12th of August, inclusive, have been duly received.

I have great satisfaction in expressing to you, my approbation of your pro-

ceedings in the Case of the "*Xerxes*," condemned by the Mixed Commission at the Havana, as related in your Despatch of the 30th of July; and of the judicious course which you adopted in the Case of the "*Esperanza*," seized by the Court of Admiralty in Cuba, as described in your Despatch of the 26th of July last, in which Case you were desired by the *Spanish* Authorities, to undertake an Office, foreign to your character, as His Majesty's Commissioner in the Island of Cuba.

In respect, however, to the detail of the facts which you offered to procure from Captain Crawford, it would perhaps have been more conformable to the general rule, which you properly prescribed to yourself in this Case, if you had waited until the Captain General had applied to you for that Evidence, and had then limited your intervention to the submitting of the application of the Captain General to the Commanders of His Majesty's Ships.

I am, &c.

W. S. Macleay, Esq.

(Signed) ABERDEEN.

### No. 101.

W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)

MY LORD,

Havana, August 18, 1828.

I HAVE been honoured by the receipt of your Lordship's Circular Despatch, addressed to His Majesty's Commissioners at the Havana, and dated 30th May last,\* by which I learn that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Principal Secretary of State for Foreign Affairs, and to confide to your Lordship the Seals of that Department.

I shall therefore in future have the honour to address my publick Despatches and Letters to your Lordship.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

The Right Hon. The Earl of Aberdeen,  
 &c.                      &c.                      &c.

\* See No. 8.

### No. 102.

W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)

(Extract.)

Havana, August 19, 1828.

IN my Despatch to the Earl of Dudley, dated the 26th Ultimo, I laid before His Majesty's Government the circumstances attending the Seizure of the Slave-vessel "*Esperanza*," by the *Spanish* Court of Admiralty, established in this City. I now have the honour to transmit to your Lordship, a Translation of a Letter I have received from the Captain-General, enclosing the Final Decision of the Court, founded on a Representation of the Fiscal, of which also a Translation is herewith enclosed.

The Decision of the Court has been, as I anticipated, a complete acquittal of the "*Esperanza*," but the particular Document connected with this Case, to which I would venture to solicit your Lordship's special attention, is the Representation of the Fiscal, on which this acquittal has been grounded. This Document is of the utmost importance, as it not only shews the complete nullity of the *Spanish* Laws, with respect to the Slave-trade, but that there are no hopes whatever of any restraint being placed on this traffick, except through the medium of the Mixed Commission.

In December 1817, His Catholick Majesty issued a Royal Cedula for the abolition of the Trade in Slaves by Subjects of *Spain*, and by the 1st Article of this Cedula, it is decreed that "the Ship in which Negroes are trans-

ported, together with the remainder of its Cargo, shall be confiscated to the Royal Treasury, and the Captain, Master, and Pilot, shall be irrevocably condemned to 10 Years' transportation to the Philippines."

In the Royal Order, dated Madrid, 2d January 1826, addressed to the Captain-General of Cuba, it is expressly said "our Lord The King has accordingly resolved, that every Vessel proceeding from the Coast of Africa, shall immediately upon her arrival at the Ports of the Island of Cuba, deliver up her Log-book to the Naval Commandant, in order that he may examine it, and should there be any reason to suspect the Vessel has brought and clandestinely landed Negroes, that he may instantly report the same to your Excellency, to the end that you may proceed to the proper investigation and punishment, in conformity to the Laws in force relating to the subject; it being well understood that to your Excellency *alone, with the advice of your Assessor*, belongs the cognizance of such Cases."

Under these *Spanish* Laws I denounced the Vessel to the Captain-General; and His Excellency, as he expressly says in his Note to me of the 14th Ultimo, referred the matter, in consequence of this last Royal Order, to the Court of Admiralty; the Fiscal, however, takes not the slightest notice of these *Spanish* Laws, by which she could not have failed to be condemned, and he tries her by the Treaty, which of course has no reference to *Spanish* Courts, and is only a Law for the guidance of the Mixed Commission, but even trying the Vessel, as the Fiscal does, by the Treaty, the whole of his Decision is such a perversion of reasoning, and withal so absurd, that I scarcely know how seriously to enter into a refutation of it. The general purport of the whole Document, however, seems to be, that as the Treaty stipulates, that no Vessel can be detained by a Cruizer, without Slaves being actually found on board, and as no Slaves were found on board when the "*Esperanza*" was seized in Harbour, therefore the *corpus delicti* being wanting, this Vessel must be acquitted. It is really impossible to imagine that the Fiscal should not perceive, that if a Cruizer had found Slaves on board the Vessel, she would have been brought before the Mixed Commission, and that the Court of Admiralty would have then had no concern with her; but indeed he says, that, in the present Case of Seizure, if the Court of Admiralty had found the Slaves on board, he would have himself handed her over to the Mixed Commission; so that, in his opinion, the only cognizance that the Court of Admiralty can take of Cases of Slave-trading, is to ascertain whether the *corpus delicti* exists, or, in other words, whether there be Slaves on board, that she may in that case be handed over to the Mixed Commission. This Decision is the more absurd, when it is considered that, in 1826, the Captain-General complained of my interfering in an affair where a British Cruizer chased a Slave-vessel into the Havana, having her Slaves on board, and when it may be doubted whether the Mixed Commission can by Treaty take cognizance of any Case of a Slave-vessel that has not been captured by a Cruizer. By this Sentence all the *Spanish* Laws on the subject of the Slave-trade, are virtually declared to be of no value whatever, and it is said that no proceedings or investigations ought to take place, nor any punishment to be inflicted, without a Decision of the Mixed Commission. It follows of course, that the Representations which His Majesty's Commissioners have been in the habit of making to the Captain-General on the arrival of Slave-vessels from Africa are perfectly useless.

As the Vessel has been acquitted, and the Sentence issued, it was of no use for me to attack its validity; and indeed I conceived myself in no way authorized to revise the Decision of a *Spanish* Court, relating to the conduct of *Spanish* Subjects. I therefore, in my answer to the Captain-General, contented myself with begging him to assure the Fiscal, that he was mistaken in supposing me to have been personally offended by his first Representation. I enclose a Copy of my Note.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.



## First Enclosure (A.) in No. 102. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, August 12, 1828.

IN his Letter, dated the 7th Instant, the Officer Second in Command over the Naval Forces on this Station, writes to me as follows:—

“Most Excellent Sir,—The Document which accompanies this Letter, will serve to answer the last Note of the Commissioner of His Britannick Majesty, of which your Excellency was pleased to transmit me a Copy in your Despatch, dated 28th July last.”

I now, Sir, transcribe this Letter for your information, and enclose a Copy of the Document alluded to.

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

## First Enclosure (B.) in No. 102. (Translation.)

*Report of the Fiscal of the Court of Admiralty at The Havana, to the Officer Second in Command of the Naval Forces, respecting the “Esperanza.”*

SIR,

Havana, August 6, 1828.

THE Fiscal says, that, in your Letter of the 1st Instant, you were pleased to make him acquainted with the Despatch, dated the 28th Ultimo, of His Excellency the Governor and Captain-General, also with its enclosed Note of the same date, which the Commissioner of His Britannick Majesty had addressed to His Excellency, on the subject and matters that have given rise to the present Proceedings; and also with the Petition of the Merchant, D. Pedro Martinez, on the subject of his entering into the necessary bond for the value of the Schooner “*Esperanza*,” which it appears that he had, previously to these Proceedings having been adopted, sold by publick auction.

The innocence of the Undersigned, and the decided concurrency of his views with those of the Agents of His Britannick Majesty, and above all, the regards which are due to the civil and political virtues of the British Commissioner, have given him much surprize to see that this Gentleman has considered as offensive to his character, dignity, and office, the Undersigned's Representation of the 19th July, and that he should have conceived that the intention of that Document was to assign him the office of Prosecutor in the Spanish Tribunals, without regard to the nature of his Instructions, or to the circumstance that he has no access whatever either to the Vessel or her Papers, and moreover when it is well known that he is not authorized to hold Official Communications with any other Local Authority than the Captain General, and also that he, being a British Commissioner and Judge, must be, of all persons, at once the Individual least able to give Evidence, and the most improper to assume the office of publick Prosecutor.

The Undersigned must here beg to be permitted, before he enters into the essential part of the question, to call the discreet judgment of the Honourable Commissioner anew, to the subject of the Representation which has given rise to these complaints, and if the first view (*corteza*) of the words of the Undersigned shall not be found sufficient, he hopes, at least, that the rectitude of the intention with which they were written, and the nobleness of the Commissioner's sentiments, will suffice to exculpate the bad stile with which they were expressed, it being a rooted principle of the Undersigned to pay every respect to such Gentlemen as possess those eminent virtues, which the British Commissioner has displayed in every Country where he has been known.

The Undersigned must also call the attention of his Britannick Majesty's Commissioner to that part of his Representation where, paying all due praise to the upright zeal of the honourable Gentleman in the execution of his Office, he proceeded by it, supported by the invitation of His Excellency the Captain General, without other proof or evidence, to give effect to the strong provisional judgment of the Commissioner, and also to those proceedings which will be found expressed more at length in the Depositions, which will hereafter be transmitted to him, as an incontestible proof of what was deemed due to publick justice, and to his accusation; and in which proceedings the Undersigned begged him, in consideration of the distinguished confidence that he had merited from his Sovereign, to continue to afford the Court all the information which might serve to open a path to the complete proof of the crime; and as these Communications from Minister to Minister, are advantageous and necessary in all questions appertaining to the Law of Nations, and moreover very conformable to the use and custom of our Spanish Tribunals, the Undersigned did not imagine that, by his request, he could possibly give offence to the Commissioner of His Britannick Majesty, or assign to him the office of Prosecutor, or oblige him, or indeed call upon him, in any way, to address himself directly to this Court, when the very fact of transmitting its deliberations to him through the medium of the Captain General, was a positive proof that the exclusive mode of communicating with him, was, in our opinion, by means of the First Chief of the Island.

This being well understood, we may now proceed to the other subjects comprized in the very handsome (*decorosa*) Note of the British Commissioner. This Gentleman then, in order to prove the rectitude (otherwise well-known) of his mode of proceeding, and of his motives, proceeds to state, that the “*Esperanza*” sailed from this Port as a Slave-vessel; that she was pointed out to him as destined for this traffick previously to her sailing; that her construction and fitting up served to confirm this opinion; that she sailed for the Coast of Africa on the 25th of last December, and was absent about 6 Months; that she returned on the 9th of July, representing herself as coming from St. Thomas, after 70 days passage, in ballast, and consigned to the Captain; that it was notorious in the Havana that she had landed on the Coast 270 Negroes, more or less; that she

entered the Port at a moment when His Britannick Majesty's corvette "Grasshopper" was there at anchor, and was instantly recognized as the same Slave-vessel that had escaped from the chase of that Ship a few days before; that the Boats of the "Grasshopper" had been twice lowered to take possession of her; that consequently she had by mere chance not been brought before the Mixed Commission; that Lieutenant Warren, who commanded the Boats, said, that he, as well as the people under his orders, all recognized her as soon as she entered, and were ready to identify her; that such were the different grounds which had determined the honourable Commissioner to report to His Britannick Majesty the arrival of the "Esperanza;" and, finally, that if His Excellency the Captain General should deem the Declaration of the Officers or Sailors of the "Grasshopper" necessary, he would undertake to provide an authenticated detail of the facts as soon as possible.

Now, it being necessary, in support of the Fiscal's Decision, to refer to the Treaty for the prohibition of the Slave-trade, the Undersigned perceives by Article IX, it is stipulated, that in order to visit such Merchant Vessels of the two Nations as may be suspected, on reasonable grounds, of having Slaves on board, acquired by an illicit traffick, and in order to detain them and subject them to the Tribunals established to take cognizance of them, it is absolutely necessary that the said Negroes should be found on board: that Article X. confirms the preceding, and decidedly prohibits the detention of Vessels not having the Negroes actually on board at the moment of Capture; that by the 1st Article of the Instructions, the above-mentioned Articles are again confirmed, and with the greatest strictness, as may be deduced from the following words:—"Ships on board of which no Slaves shall be found intended for purposes of traffick, shall not be detained on any account or pretence whatever;" and that, grounded on the above Articles, the 6th Article of the Instructions directs, that the Capturing Ship shall leave the Negroes on board the Prize; that the Captain shall make an authentick Declaration, in writing, of the state in which he may find the detained Vessel, giving to the Master of the Slave-vessel, a signed Certificate of the Papers seized, as also of the number of Slaves found on board; that by the 3d Article of the Regulations, which gives the Form of these Proceedings, it is stipulated, that, in the event of its being considered necessary, the Declaration of the Captor must be produced, in order that the Court may be able to judge and to pronounce if the Vessel has been justly detained or not, and that, by the 5th Article of the Regulations, the said Captor is obliged to give his name, that of his Ship, the Latitude and Longitude of the Place where the detention shall have taken place, and the number of Slaves found living, on board of the Slave-ship, at the time of the detention.

Now, from such express and decisive stipulations, the Fiscal must imagine that the will of the august Sovereigns who sanctioned the Treaty, was, that in the event of a real and effective Capture, and in that event only, there should be proceedings adopted against Slave-vessels, (se formase proceso): and in order that there might be no doubt on this subject, it is said in the 1st Article already cited of the Instructions, that under no pretext or motive whatsoever shall those Vessels be detained which have no Negroes on board: stipulations that, in the opinion of the Undersigned, exclude the consideration of every kind of extrinsic proof or reference in the Case of the "Esperanza," and this not only by means of the preceding provisions, but also by the fact that, according to our Laws, where there is no *corpus delicti*, there ought to be no criminal sought for, and since there is no object or matter to call into exercise the special authority of the Mixed Commission, in which peculiarly resides the right of determining the Vessels that have infringed or not the Treaty, and without whose decision, there ought to ensue no other proceedings or investigations, nor be imposed any punishments. The Fiscal, moreover, believes that the illustrious Agents of His Britannick Majesty took the same view of the subject, when they have supposed no Case (so far at least as the Undersigned is aware) in which Sentence is to be pronounced except when the Africans shall have been found on board, and moreover the Captor being in duty bound to give a note of the number of the Negroes so seized, it appears, as well from this fact, as from what has been already said, that the Evidence of the Officers, which is offered by the British Commissioner, is now unnecessary, on account of its being impossible to verify it, so far as to connect it with those particulars, pointed out in the above-mentioned 6th Article of the Instructions, and still more clearly stated in a Report, wherein this Court of Admiralty has proceeded to do all that was possible to imitate the zeal of the British Commissioner. It has at length resulted, from the only mode of trial that the circumstances have permitted to be adopted, and has been, to a certain decree, ascertained, that the expedition of the "Esperanza," was not criminal; but even although all the motives set forth at length by the Commissioner, should concur against her, there can be no room for other proceedings, while the *corpus delicti* does not exist (mientras no existiese el cuerpo del delito.)

Such, moreover, was the information to which the Fiscal referred in his former Representation, he having been always in the intention of handing over the cognizance of the Case to the Mixed Commission, if he had been able to find the *corpus delicti*, since to that Commission exclusively belongs the cognizance of whatever relates to the exact execution of the Treaty.

With this answer, if you should deem it well founded, you, Sir, will be able to ratify the legality of the Act, dated the 28th Ult., transmitting it with a Minute of the Proceedings of this Court to the Commissioner of His Britannick Majesty, through the medium of His Excellency, informing the Commissioner at the same time, that this Tribunal considers, with respect to the observations which his approved zeal has dictated, relative to the prohibited commerce, that there is no remedy whatever within its power.

With respect to the Petition of D. Pedro Martinez, the Fiscal is of opinion, that an end ought to be put to these proceedings; that the Commandant General of Registers ought to be directed to cancel the Bond of the Schooner "Esperanza," which was given into his charge; and that the Owner of the Vessel should be ready to declare his assent to the proper written Instrument, which shall not be issued without this previous step being taken. The Tribunal, nevertheless, will take such measures on this subject as shall be deemed most proper.

(Signed) COIMBRA.

The Officer Second in Command of the Naval Forces.

Seen, and decreed as appears proper to the Fiscal, in his preceding Representation.

(Signed) TOPETE.  
PONCE DE LEON.  
JOSE MIGUEL IZQUIERDO.

Copy, conformable to the Original in the Minutes of this Proceeding, and in virtue of superior orders, I certify the same.

(Signed) PLACEDO BORREGO.

Havana, August 7, 1828.

A Copy. (Signed) ANTONIO MARIA DE LA TORRE Y CARDENAS.

## Second Enclosure in No. 102.

### *The British Commissioner of Arbitration to the Captain General.*

Havana, August 14, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to acknowledge the receipt of the Letter of His Excellency the Captain General, dated the 12th Instant, enclosing Copies of the Decision of the Fiscal of the Court of Admiralty, in the affair of the Schooner "*Esperanza*," and of the subsequent approval of his opinion by that honourable Court.

On these Documents it remains for the Undersigned only to make one remark, namely, that he is extremely sorry that the Fiscal should have conceived His Majesty's Commissioner to have been personally offended by the Representation of the 19th Ult., when the Undersigned has particularly expressed himself as truly sensible of his politeness.

From the whole tenour of the Fiscal's Representation, and particularly from the wish expressed that His Majesty's Commissioner should "continue to give the Court of Admiralty all the information that might serve to afford proof of the crime," the Undersigned certainly imagined, that the purport of the Communication was to request the Undersigned to become the Prosecutor of the "*Esperanza*" in the Spanish Tribunals. The Undersigned is now, however, happy to learn, that he has not exactly understood the object of the Fiscal, and he begs that His Excellency the Captain General will have the goodness to communicate the same to that Gentleman, for whose very flattering opinion the Undersigned repeats that he feels truly grateful.

The Undersigned is happy to avail himself, &c.

(Signed) W. S. MACLEAY.

His Excellency the Captain General.

## No. 103.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Oct. 28.)*

MY LORD,

Havana, August 20, 1828.

HIS Majesty's Commissioners have, for the last few Months, observed that the Traffick in Slaves from this Port has been assuming more and more of a piratical character. Armed Vessels fit out publicly for the Coast of Africa. At first it was the practice for such Vessels to take Cargoes out with them, and on meeting with a Slave-vessel at Sea, to exchange such Cargoes by force for the Slaves, and thus throw all the danger and difficulty of procuring, anew, Slaves in Africa, on the weaker Vessel. Of late, however, they have thought it best to save themselves the expence of taking Cargoes out with them from the Havana, and have resolved to procure Negroes by plundering all Slave-Vessels that they may fall in with on the African Coast. The practice has been, to clear out from this Port as if with a Cargo for the Coast of Africa, and then clandestinely to land it before sailing; so that the Vessel might proceed free to the African Coast, and there commit her piracies, the nominal Owner of the Vessel being one of the Sailors, and of course an irresponsible person.

I understand the *Portuguese* Slave-traders have been the principal sufferers. However this may be, I have now to report to your Lordship an event which I hope will, in some degree, check the odious conduct of these Pirates, who unfortunately do not always confine their attacks to Negro-vessels.

On the 1st Instant, an armed Vessel, the "Masulipatan," cleared out for the Coast of Africa as with a Cargo, but, on the Night previous to her intended sailing, she contrived clandestinely to land her Cargo, although not without the fact coming to the knowledge of the Custom-House. Upon enquiry, it was found that none of the proper duties and charges, consequent upon clearing out, had been paid. The whole of this conduct being a direct infraction of the Regulations of the Intendant and of the Revenue Laws, His Excellency gave immediate orders for the confiscation of the Vessel, and the arrest of the Owner, who proved, however, upon enquiry, to be nominally the Captain, by whom the real Owner was thus covered. His Excellency in consequence published in the Newspapers the Decree, of which I have the honour to enclose a Translation, and which, although it be specially intended to protect the Revenue of the Custom-House, cannot fail to check Piracy, and perhaps, in some degree, the Slave-trade. It is indeed scarcely to be imagined that Men of property, however devoid of principle they may be, will, by clearing out in their own names, thus render themselves subject to the stigma and consequences of being the declared Owners of piratical Slave-vessels.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

Enclosure in No. 103.

(Translation)

*Decree of the Intendant, respecting the granting of Clearances for Vessels sailing from the Havana.*

HAVING, by experience, ascertained the prejudicial consequences which have resulted, and may hereafter result, to the Royal Revenue and to the Publick, from the habit practiced of late, and which allows unknown persons to clear out, without subjecting them at the same time to any responsibility, His Excellency the Counsellor of State, Intendant of the Army, Subdelegate, Superintendant General of the Royal Revenues, by his Decree of the 9th Instant, has been pleased to direct, that in future it should not be permitted to clear out for any Port, except to Individuals who possess all the necessary qualifications to ensure payment of the proper duties to the General Administration of the Royal Revenues, or who present a Bond in writing of some known House or creditable Merchant.

And by His Excellency's Order this is now announced to the Publick, in order that they may take cognizance of it.

Havana, August 13, 1828.

(Signed) AYALA.

No. 104.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

MY LORD,

Havana, August 26, 1828.

ON the 13th Instant, the *Spanish* Schooner "*Repetidora*," D. Felipe Dominguez, Master, cleared out from this Port for the Island of St. Thomas, on the Coast of Africa.

On the 15th Instant, the *Spanish* Brig "*Ricardo*," D. Augustin de Mata, Master, arrived in Port, after having landed her Slaves on the Coast of this Island. I immediately announced her arrival in the usual way to the Captain General, who referred her, in pursuance to the Royal Order of 2d January 1826, to the Court of Admiralty. Since then I have had the ordinary form of Letter, stating, that after the proper examination of her Journals nothing has been found to prove that the "*Ricardo*" had any concern with the illicit Traffick in Slaves.

It is currently reported in the Havana, that there was a dreadful insurrection of the Negroes belonging to the "*Ricardo*" while she was in the act

of landing them on the Coast, and that it was not until after nearly 100 of these poor creatures had been shot, that the tumult could be quelled.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

No. 105.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

(Extract.)

*Havana, August 28, 1828.*

HIS Majesty's Schooner "Skipjack," Lieutenant James Pulling, Commander, arrived in this Port on the 14th Instant, bringing with her the Spanish Brigantine Schooner "*Intrepido*," of 151 tons, and armed with 7 guns, D. Jozé Puig y Miro, Master, which she had detained on the 2d Instant off Cape Tiburon, St. Domingo, with 153 Slaves on board.

The Sentence of the Mixed Commission, condemning the Vessel, and emancipating the Slaves, was issued on the 20th Instant. I have the honour to enclose Copies of the Captor's Declarations and Certificates, and also an Abstract of the Evidence, and a Translation of the Sentence.

The Master of the "*Intrepido*" is an old offender against the Treaty, for, by the Papers laid before Parliament, relative to the Slave-trade, I find that he had a Vessel, called the "*Ninfa Habanera*," condemned on the 3d January 1826, by the Mixed Commission at Sierra Leone. He sailed on his present Voyage from this Port, in the "*Intrepido*," on the 31st December last, with a Crew of 42 men and a boy, and left the Coast of Africa, on his return home, in June last, with 343 Negroes on board. The mortality on the Voyage home appears to have been dreadful, for, when detained, only 153 Negroes were found alive in her, and of the Crew only 27. A certain portion of this mortality must no doubt be attributed to two insurrections of the Negroes on board, but in general it must be considered as owing to the horrible confinement of so great a number on board so small a Vessel. The Crew was diminished in some degree by desertion, but principally by death, and those who have returned are in as sickly a state as the Negroes; indeed, the Master and one of the men examined by the Court, seemed to be in the last stage of fever, so as really to render their examination a most distressing office.

It appeared, however, from the Evidence, that, on the 2d Instant, the "Skipjack" was seen by the Slaver, and, according to the oaths of the Crew, was taken by them for a *Colombian*, so that instead of hauling down their Colours, on being fired at by the "Skipjack," they returned the fire, and were captured after a running action, in which, happily, no damage was done on either side. Since the Capture 18 Negroes have died, thereby reducing the number delivered up by Lieutenant Pulling to the Captain General, to 135, who have all been emancipated.

This Case offered no difficulty of any kind. I would, however, beg to call your Lordship's attention to the circumstance, that, if bloodshed should at any time ensue from the resistance of the Slave-traders, those wretches will, in all probability, manage to escape punishment, by swearing that they mistook His Majesty's Cruizers for *Colombian* or *Mexican* Privateers, which, as they say, often use the *British* Colours to entrap *Spanish* Vessels.

Among the Papers of the "*Intrepido*," delivered into Court, was a legal Document in the *Spanish* Language, purporting to be the Act of Sale, by which, for the consideration of 9000 dollars, D. Juan Antonio Ysaguirre, of this City, as the duly authorized Agent of Moses de Castro Matos, a Subject of His Britannick Majesty, and a resident Merchant in Jamaica, transferred this Vessel, formerly called the "*Isabella*," and English built, to D. Jozé Fonst, a resident in the Havana. It appeared, however, on examin-

ing the List of the Crew, that the purchaser, D. Jozé Fonst, was the Second Mate of the "Intrepido" on this illegal expedition; and although he, the Master and Crew, all deposed on oath to the truth of his being the Owner, the mean rank, and wretched appearance of the man, make me almost certain that the above Act of Sale is a fictitious one; and that either the Jamaica Jew above-mentioned, is, contrary to Law, employing his capital in this nefarious traffick, or, what I confess is still more likely, that the real Owner of the Vessel is a Resident of the Havana, and has covered himself by purchasing the Vessel in the name of the Sailor, Fonst.

I have thought it my duty to transmit an exact Copy of the above Act of Sale to His Excellency the Lieutenant Governor of Jamaica, in order that his attention might be drawn to the conduct of this Moses de Castro Matos, who, or, at all events, his Agent, must have been aware that he was selling his Vessel to Slave-traders.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
*&c. &c. &c.*

First Enclosure in No. 106.

*Declaration of Lieutenant Pulling, in the Case of the "Intrepido."*

I, JAMES PULLING, commanding His Britannick Majesty's Schooner the "Skipjack," hereby declare, that, on this 28th day of August 1828, being in or about the Latitude of 18° 14' North, and Longitude 74° 25' West, of the Meridian of Greenwich, I detained the Ship or Vessel named the "Intrepido," of 151½ tons, sailing under Spanish Colours, armed with 1 long 12-pounder gun, and 4 6-pounder carronades, (or gunnades,) commanded by D. Jozé Puig y Miro, who declared her to be bound from the River Bonny, on the Coast of Africa, to Havana, in the Island of Cuba, with a Crew consisting of 27 persons, namely, 26 Men, and 1 Boy, whose names, as declared by them respectively, are inserted in a List at the foot hereof; and having on board 153 Slaves, said to have been taken on board the 7th day of June 1828, and are enumerated as follows, viz. :—

	Healthy.	Sickly.	Died since Capture.
Men - - -	27	17	3
Women - -	26	12	5
Boys - - -	22	5	1
Girls - - -	37	7	6
	—	—	—
Total	112	41	15

And I do further declare, that, the said Ship or Vessel appeared to be seaworthy, and was supplied with a sufficient stock of water and salt provisions for the Crew and aforesaid Slaves, but was short of flour, pease, or other vegetable food as sustenance for the sick, and which I supplied them from His Majesty's Schooner under my command.

I do further declare that at about 6. A. M. of the day above stated, the said Brigantine "Intrepido," was seen in the E. S. E., standing to the W. N. W., to which I immediately gave chase; at 6. 30. hoisted the British Ensign and Pendant, and at 10 o'Clock fired two shots at the "Intrepido," who hoisted the Spanish Royal Colours, (as a cloak for the prohibited traffick, in which she proved to be engaged,) and returned our fire with 2 shots; and at 10. 24. repeated our fire, which she also returned; the firing was then occasionally kept up on both sides, but on our grape shot reaching her, about 2 P. M. she shortened sail, and hauled down her Colours.

I here beg to observe, that on boarding the "Intrepido," I found her to be in a filthy state; with 6 of the Crew sick, and several of the Slaves appearing in an emaciated state, and others afflicted with ophthalmia and diarrhoea, which I attribute to their close confinement, length of voyage, and improper food.

## HAVANA.

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*List of the Crew.*

Names.	Quality.	Names.	Quality.
José Puig - - - -	Master	Ilario Otera - - - -	Seamen
José Fohst - - - -	2d Do.	Nicolas Guiré - - - -	"
Domingo Alvarez - - -		Bartolome López - - -	"
Feliz Dias - - - -		José Bousa - - - -	"
Amedeo Eugène Braville		Francisco Rodríguez - -	"
Pedro Reiz - - - -	Seamen	Francisco Prób - - - -	"
Mateo Ibaró - - - -	"	Ramon Marqués - - - -	"
José Montero - - - -	"	Juan Batista Savilión - -	"
Ramon Gonzalez - - -	"	Vincente Romano - - -	"
Mateo Durante - - -	"	Francisco Bentancour - -	"
Manuel Rodriguez - - -	"	Juan Antonio Vidal - -	"
Manuel Martinez - - -	"	Pedro Lorente - - - -	"
Ramon Sandurde - - -	"	Domingo Herrera - - -	"
Miguel de la Puente.			

Dated on board the said Schooner "Skipjack," at Sea, off Cape Tiburon, August 2, 1828.

(Signed) J. PULLING, Lieutenant and Commander of  
His Britannick Majesty's Schooner "Skipjack."

Witnesses. (Signed) R. T. REID, Mate.  
FRED. CRELLIN, Assistant Surgeon.

*Additional Declaration.*

I, JAMES PULLING, commanding His Britannick Majesty's Schooner "Skipjack," hereby declare, that the Master of the Spanish Brigantine "Intrepido," did, on the day of her Capture, deliver up to me the following Papers, viz:—

(No. 1.)—Ship's Articles, containing the Names and Classes of the Crew.

(No. 2.)—The Royal Passport, or Mercantile Navigation.

(No. 3.)—A Certificate, shewing that she was formerly the "Isabella" Schooner of Jamaica.

(No. 4.)—Marked (200). A Parchment Pass to leave Havana (of the Moro.)

And that I did pursuant to the Treaty give him a Receipt for the same.

I do further declare, that since the day of Capture, the said Master delivered to the Prize Master 2 other Papers, viz:—

(No. 5.)—The Log-book. And

(No. 6.)—A written Paper, dated 28th January 1828:

All which Papers, so numbered, I do now deliver up to the Mixed Commission.

Given under my hand, on board His Britannick Majesty's  
Schooner "Skipjack," in the Harbour of Havana, the  
15th day of August 1828.

(Signed) J. PULLING,  
Lieutenant and Commander.

Witnesses. (Signed) R. T. REID, Mate,  
FRED. CRELLIN, Assistant Surgeon.

## Second Enclosure (A.) in No. 105.

*Certificate of the Deaths of Negroes on board the Brigantine "Intrepido."*

Date of Deaths.	Men.	Women.	Boys.	Girls.
1828, August 3, -	1	"	"	"
" 4, -	1	1	"	1
" 5, -	"	1	1	1
" 7, -	1	"	"	"
" 8, -	"	2	"	1
" 9, -	"	1	"	1
" 11, -	"	"	"	1
" 12, -	"	"	"	1
" 15, -	"	1	"	"
" 16, -	1	"	"	"
" 17, -	"	"	"	1
Total -	4	6	1	7

WE, the Undersigned, do hereby certify that the above is a correct List of the Deaths which have occurred among the Negroes on board the Brigantine "Intrepido," since her Capture.

August 18, 1828.

(Signed)

R. T. REID, Mate.

FRED. CRELLIN, Assist. Surgeon.

(Signed) J. PULLING, Lieut. and Commr. of His Majesty's Schooner "Skipjack."

## Second Enclosure (B.) in No. 105.

*Certificate in favour of Jozé Fonst, Mate of the "Intrepido."*

WE, the Undersigned, do hereby certify, that Jozé Fonst, Mate of the Spanish Brigantine "Intrepido," has, since the Capture of the said Vessel, rendered himself very useful in every possible way, and that, on two several occasions, his vigilance prevented the Negroes rising upon us; and that, on examination, after his information, several were found already released from their irons, and prepared to take the first opportunity of revolting; and we have every reason to believe that his good conduct has prevented considerable bloodshed.

Signed this 15th day of August 1828, on board the "Intrepido."

(Signed)

R. T. REID, Mate.

FREDK. CRELLIN, Assist. Surgeon.

## Third Enclosure in No. 105.

*Abstract of the Evidence in the Case of the "Intrepido."*

IN addition to the Evidence of Lieutenant Pulling, as set forth at length in his Affidavit; D. Joze Puig deposed, that he is a Native of the Isle of Leon, an Inhabitant of this City of Havana, a Catholick, married, and by profession a Seaman, having lately been Captain and Master of the Brigantine Schooner "Intrepido;" that he was appointed Captain by D. Joze Fonst, who is the Owner of the Vessel, and, at the same time, Second Mate; that the Depo-



nent took the command of the Vessel in the Month of December last; that he arrived here in Port 4 or 5 days ago, being brought in by the English Schooner of War, on account of Negroes from the Coast of Africa having been found on board; that he sailed from the Havana with a Cargo of linen and spirits, for the Isla de Principe; and that, as the Vessel had the misfortune to break her rudder on the 24th day of the Voyage, they put into Martinique to refit, from which Island they continued their Voyage, and, by reason of bad weather, entered into the River Bonny, on the Coast of Africa, where the King of the Country obliged them to deliver up their Cargo, and to take Negroes on board, to the number of 343. That this was done without any force being employed on the part of the Deponent, and only with the view to repay himself for his Cargo; that, on his return, he touched nowhere, and was detained, after some guns being fired on both sides, 10 or 12 miles from Cape Tiburon, St. Domingo, having, at that moment, on board 154 or 155 Slaves, the rest having died; that the Papers now produced are those of the Vessel, and have undergone no alteration since they were delivered up to the Commander of the Schooner; that the armed strength of the Vessel is set forth in the Rol; that the Deponent left the Havana with a Crew of 42 men and 1 boy; that 3 deserted before sailing from this Port, 3 also at Matanzas, other 3 at Martinique, and that 11 died on the Voyage, so that only 22 men remained, who, with 4 men taken on board either at Martinique or Africa, with the boy, who acted as servant, made up the Crew of 27 persons, found on board at the moment of detention; that the Deponent is 41 years of age.

Don Jozé Fonst deposed, that he is a Catholick, aged 39, a Native of Canet, in Catalonia, Inhabitant of the Havana, married, and, by profession, Mate of the Brigantine Schooner "Intrepido;" that the Captain, Master, and Supercargo of the Vessel, is D. Jozé Puig, but that the Vessel is the sole property of this Deponent; that he came into this Port 4 days ago, having been detained by the English Schooner of War, on account of having Bozal Negroes on board; that he sailed from this Port for the Isla de Principe on the 1st of January this Year, or the last of December 1827, with a Cargo of linen and spirits; that they arrived at Bonny, on the said Coast of Africa, in order to trade in palm-oil, or other produce of the Country; that the King of the Country made himself Master of the Cargo by a contract passed between him and the Captain, wherein the latter engaged to take 343 Negroes in payment for his goods; that they sailed with these Negroes, touched nowhere on their return, and were detained near Cape Tiburon by the said English Schooner of War; that, at the moment of Capture, there were about 150 Negroes on board; that the Papers now produced are those of the Vessel; that the Act of Sale establishes the property of the Vessel to be in the Deponent, and that the Log-book produced belongs to D. Francisco Sarria, First Mate, now deceased; that the English Schooner fired on the Brigantine, as soon as she hoisted her English Flag; that the "Intrepido" continued her course, hoisting her Spanish Colours, and, observing that the English Schooner did not cease firing, they took her for a Colombian Privateer, and answered with 4 or 5 shots, until they were convinced that she was of the English Royal Navy, when they immediately ceased firing, but continued their flight until they were overtaken.

Miguel de la Puente deposed, that he is a Catholick, aged 22, a Native of Cadiz, resident in the Havana, in the Barrio of *Jesus Maria Estramuros*, unmarried, and, by profession, Steward of the Brigantine Schooner "Intrepido;" that, about 7 Months ago, he engaged himself in the above capacity, and sailed from this Harbour for the Isla de Principe, but that the Vessel arrived in the River Bonny, on the African Coast, where the Officers disembarked the Cargo, consisting of linen and spirits, which the Prince or King of the Country immediately took, paying them with 343 Negroes, whom they took on board, and sailed with on their return home, without stopping at any Place; that, about the Island of St. Domingo, the English Schooner of War began to give them chase, firing upon them without interruption; that the Brigantine hoisted the Spanish Colours, and also fired a gun, when, seeing that the Schooner did not cease her fire, they immediately took her for a Colombian Privateer, that had hoisted the English Flag to deceive them; that, under this belief, they answered with 5 or 7 shot, fired at intervals, until they at length became convinced that the Schooner was of the Royal English Navy, when they ceased firing, and continued their flight until they were overtaken, when more than 100 Slaves were found on board by the Captors; that the Captain, Master, and Supercargo of the "Intrepido," is, D. Jozé Puig y Miro, with whom this Deponent engaged; and that he is ignorant who is the Owner.

#### Fourth Enclosure in No. 105.

(Translation.)

#### *Sentence of the Mixed Commission, in the Case of the "Intrepido."*

IN the always faithful City of the Havana, on the 20th of August 1828, the most Excellent Senor, D. Claudio Martinez de Pinillos, Grand Cross of the Royal American Order of Isabel the Catholick, Counsellor of State, Intendant General of the Army and Royal Revenues of this Island, Commissary Judge of this Mixed Commission, and the Colonel D. Rafael Quesada, and D. William Sharpe Macleay, Commissioners of Arbitration, assembled together, in consequence of the absence of the British Commissary Judge, with permission of his Government; having considered these Proceedings, adopted in virtue of the detention made by the British Schooner of War "Skip-jack," Lieutenant James Pulling, Commander, which Vessel, after some shots having been fired on both sides, captured, on the 2d of this Month, near Cape Tiburon, on the Island of St. Domingo the Spanish Brigantine Schooner "Intrepido," D. Jozé Puig y Miro, Master and Captain, and the Second Mate, D. Jozé Fonst, being Owner; having at the time of detention, 153 Bozal Negroes on board, of whom 18 have since died, and the remaining 135 have been delivered up to the Spanish Authorities; and it appearing plainly proved, by the Declaration of the said Captain,

and of the other Witnesses examined, and by the Documents found on board the said Brigantine Schooner, that she sailed from this Port the 31st day of December, or the 1st day of January last, with Papers and a Cargo for the Isla de Principe, that she directed her course to the River Bonny, on the Coast of Africa, where she took on board 343 Slaves, of whom the greater part have died, so as to reduce the number to the abovementioned 135; the said Commissioners, with due regard to the merits of the Cause, and according to the usual brief and summary mode of proceeding, adopted by the Mixed Commission in all such Cases, when the truth has been made manifest; do hereby declare, that the Capture of the said Brigantine Schooner "*Intrepido*," and of the 153 Negroes found on board, is good and legal, and that the said Schooner, her Tackle and Apparel, and whatever else she may contain, as mentioned in the Inventory, are subject to confiscation, with the exception of the 135 Negroes remaining alive, who are hereby declared to be free from all slavery and captivity. The said Commissioners accordingly direct that the condemned Vessel, and all that belongs to her, be valued under oath, by the principal Masters of the Royal Arsenal, who shall give a proper Voucher to this effect, and that she shall be exposed to publick auction in the presence of the Auxiliary Notary of the Real Hacienda, D. Francisco Jozé de Correr, in order that, being disposed of to the highest bidder, the Proceeds may be applied to the benefit of the two Governments; the said Vessel being for the present placed in deposit with D. Jayme Andreu, who shall likewise swear faithfully to perform his duty, and shall receive her from the Captor according to formal inventory. The Commissioners proceed, moreover, without loss of time, to deliver, as is customary, to the aforesaid 135 Negroes, their Certificates of emancipation, by means of the Secretary, D. Juan Francisco Cascales, and address an official Letter, with a certified Copy of the Sentence, to His Excellency the Captain General, in order that he may take the proper measures to carry it into effect; and by this their Decree, the Commissioners definitively deciding, have thus provided, ordered, and signed, in the presence of their Secretary, who certifies.

(Signed)

CLAUDIO MARTINEZ DE PINILLOS.  
RAFAEL QUESADA.  
W. S. MACLEAY.

(Signed)

JUAN FRANCISCO CASCALES, Secretary.

## No. 106.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received October 28.)*

MY LORD,

*Havana, September 2, 1828.*

THE *Spanish Ship "Veloz Pasagera,"* formerly the "*Montezuma*," D. Jozé de la Vega, Master, cleared out from this Port on the 25th Ultimo for Manilla. There can be no doubt, however, that her real destination is the Coast of Africa, and her object Piracy, but particularly that most profitable species, the plundering of Slave-vessels. She is pierced for 28 guns, and mounts 25. I am happy to say that, her detestable and dangerous objects being known, she has found it impossible to get her full complement of men, and has sailed with only about 70.

On the 22d Ultimo, the *Spanish Brig "Vengador,"* D. Jozé Garay, Master, arrived from the Coast of Africa, after having landed a Cargo of Slaves on the Coast. I announced her arrival in the usual manner to the Captain General, and I have received the ordinary Answer, that among her Papers nothing has been found to prove her guilt. Copies of His Excellency's Answers are enclosed.

On the 31st Ultimo, arrived in this Port the *Spanish Brig "Pirro,"* in ballast, Juan Gonzalez Cespeda, Master; she is announced to be from *St. Thomas* in 13 days. This, however, appears to be merely a fiction, in order to make her appear as from the *Danish West India Island*, for, according to the general report prevalent in the Havana, she landed a Cargo of nearly 400 Slaves previously to her entry into this Port; as, however, she did not clear out from this Place, and I have nothing to urge in substantiation of her guilt but common rumour, I did not think it of use to denounce her to the Captain General.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
                   &c.                   &c.                   &c.

First Enclosure in No. 106. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, August 30, 1828.

I HAVE received your Letter of the 27th Instant, in which you inform me, that it will be your duty to apprise your Government of the arrival in this Port of the Spanish Brig "*Vengador*," after having disembarked Negroes in this Island. I have to inform you, in answer, that, in obedience to the Resolution of The King, my august Sovereign, dated 2d January 1826, I this day have issued the necessary orders to the Officer Second in Command on this Station, directing him to enter upon the necessary investigations, of the result of which you shall be duly informed.

God preserve you many Years.

(Signed)

FRANCISCO D. VIVES.

*The Commissioner of His Britannick Majesty.*

Second Enclosure in No. 106. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, September 2, 1828.

IN his Letter of Yesterday, the Officer Second in Command over the Naval Forces on this Station writes me as follows :—

" MOST EXCELLENT SIR,

" The Commandant of the Registers of this Island informs me, under date of the 25th Ult., that having examined the Log-books of the Spanish Merchant Brig "*Vengador*," which anchored in this Port on the 23d, after her Voyage from the Island of St. Thomas, he finds no proof that this Mercantile expedition has been engaged in the prohibited Traffick of Negroes. This I state for your Excellency's information, in answer to the Note on the same affair, dated the day before yesterday."

I now, Sir, transcribe this Letter for your information, in answer to your Note of the 27th August, adding at the same time, that I shall take the first occasion to inform The King, my Master, of this affair.

God preserve you many Years.

(Signed)

F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

No. 107.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Nov. 28.)*

MY LORD,

Havana, September 30, 1828.

I HAVE to inform your Lordship that, on the 18th Instant, the Spanish Schooner "*Cubana*," alias "*Marinera*," D. Antonio Zabata, Master, sailed for the Coast of Africa.

On the 16th Instant, the Spanish Schooner "*Josefa*," alias "*Fortuna*," D. Ramon Casal, Master, arrived in this Port, in ballast, after having landed a Cargo of Slaves on the Coast.

I beg to enclose Copies of the Answers I have received from the Captain General, on my announcing to him that it would be my duty to report her arrival to your Lordship.

I have the honour to be, &c.

(Signed)

W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*

&c.

&c.

&c.

First Enclosure in No. 107. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, September 20, 1828.

I HAVE received your Letter of the 18th Instant, acquainting me, that it will be your duty to inform your Government of the arrival in this Port, from the Coast of Africa, of the

Spanish Schooner "*Josefa*" alias "*Fortuna*," after having disembarked Slaves on the Coast of this Island, and in answer I have to inform you, that, in obedience to the Resolution of The King, my august Sovereign, of 2d January 1826, I have written to-day to the Second Chief of the Naval Forces on this Station, directing him to proceed to the requisite investigation, of which you shall be duly informed. God preserve you many Years.

(Signed) F. D. VIVES.

*The Commissioner of His Britannick Majesty.*

Second Enclosure in No. 107. (Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, September 23, 1828.

IN his Letter of Yesterday, the Second Chief of the Naval Forces on this Station, writes me as follows:—viz.

"MOST EXCELLENT SIR,

"The Principal Commandant of the Registers informs me, in his Letter of the 18th, that having examined the Log-books of the Spanish Merchant Schooner "*Josefa*," alias "*Fortuna*," which anchored in this Harbour on the 18th Instant, after a Voyage from the Island of St. Thomas, he has found nothing to shew that this Mercantile speculation has had any concern with the prohibited Traffick of Bozal Negroes."

I transcribe this Letter for you, in answer to your Letter of the 18th.

God preserve you many Years.

*The Commissioner of His Britannick Majesty.*

(Signed) F. D. VIVES.

No. 108.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Nov. 28.)*

MY LORD,

Havana, October 11, 1828.

On the 2d Instant, the four following Spanish Vessels sailed for the Coast of Africa:—viz. the Schooner "*Transito*," D. Joze Rodriguez, Master; the Schooner "*Voladora*," D. Bonifacio Echelaen, Master; the Schooner "*Constancia*," D. Joaquim Bergallo, Master; and the Brig "*Ricardo*," D. Marcellino Moran, Master. The "*Transito*" and "*Ricardo*" are Vessels but lately arrived from Africa with Negroes, and which the Local Authorities have declared to be innocent, because their Log-books said nothing of the nature of their nefarious traffick.

On the 5th Instant, the Spanish Schooner "*Amistad*," D. Manuel Fernandez, Master, sailed for the Coast of Africa. This Fernandez was the Master of the "*Minerva*" in 1826, when she disembarked her Negroes in the Havana, on being chased into Port by His Majesty's Ships "*Pylades*" and "*Magpie*."

On the 30th Ult. the Spanish Privateer "*Fama de Cadiz*" arrived here under the name of "*Diana*," D. Manuel Igartua, Master, after having disembarked on the Coast a Cargo of Slaves. I have the honour to enclose Copies of the Correspondence which passed between the Captain General and myself on this occasion. Some little delay occurred in my denunciation of this Vessel, owing to the confusion occasioned by her change of name and the consequent difficulty of ascertaining her identity. I may now, however, assure your Lordship, that the Privateer is the "*Fama de Cadiz*," and that she landed Slaves on the Coast, previously to coming into this Harbour, on the 30th Ult.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

## First Enclosure in No. 108.

*The British Commissioner of Arbitration to the Captain General.*

SIR,

Havana, October 3, 1828.

IT is with regret that I have again to inform your Excellency, that it will be my duty to acquaint my Government of the arrival of another Slave-vessel from the Coast of Africa. On the 30th Ultimo, the *Spanish Privateer*, which sailed from this Port, in the beginning of the Year, under the name of the "*Fama de Cadiz*," D. Juan Sandrino, Master, arrived here, under the name of the "*Diana*," D. Manuel Igartua, Master, after having, as I have reason to understand, landed a Cargo of Slaves on the Coast. I avail myself, &c.

His Excellency the Captain-General.

(Signed)

W. S. MACLEAY.

## Second Enclosure in No. 108.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, October 7, 1828.

I HAVE received your Letter of the 3d Instant, in which you inform me, that it will be your duty to acquaint your Government with the arrival in this Port of the *Spanish Privateer*, that sailed from hence in the beginning of the Year, under the name of the "*Fama de Cadiz*," D. Juan Sandrino, Master, and which returned on the 30th Ultimo, under the name of the "*Diana*," D. Manuel Igartua, Master, after having disembarked, as you have been given to understand, a Cargo of Slaves on the Coasts of this Island. In reply, I have to inform you, that, in obedience to the Decree of The King, my august Sovereign, dated 2d January 1826, I address this day a Letter to the Officer Second in Command over the Naval Forces on this Station, directing him to proceed to the requisite investigation, of the result of which you shall be duly informed.

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

## Third Enclosure in No. 108.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, October 9, 1828.

THE Officer Second in Command over the Naval Forces on this Station, in his Letter of Yesterday, writes to me as follows:—

"Most Excellent Sir,—The Principal Commandant of the Register Office in this Island, in his Letter, dated the 3d Instant, has written to me as follows:—'In order to obviate all suspicion as to the objects of the Privateer equipment of the *Spanish Merchant Vessel* "*Diana*," which sailed from Cadiz the 2d of last March, under the command of D. Manuel Igartua, and arrived here on the 30th Ultimo, I asked the said Captain for his Log-book, and from the examination of it, there is no proof that this Vessel has been employed in the prohibited Traffick of Negroes.—I transcribe this for your Excellency, in answer to your Letter relating to the same affair.'"

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed)

F. D. VIVES.

## No. 109.

*W. S. Macleay, Esq. to The Earl of Aberdeen.—(Received Dec. 23.)*

MY LORD,

Havana, November 4, 1828.

ON the 11th Ultimo, the *Spanish Schooner* "*Josefa*," alias "*Fortuna*," D. Ramon Casal, Master, sailed for St. Thomas, on the Coast of Africa, and on the 12th Ultimo, the *Spanish Brig* "*Segunda Teresa*," D. Saturnino Escull, Master, sailed for the same destination.

On the 1st Instant, the Schooner "*Constanza*," D. Antonio Moniel, Master, sailed for the Island of St. Thomas, and the Schooner "*Aerostatico*," D. Pedro Manegal, Master, for the Isla de Principe.

This last mentioned Vessel, "*Aerostatico*," returned into Port in ballast, on the 16th Ultimo, after an absence of 169 days, and under circumstances of the greatest suspicion. She was reported to be from the *Danish Island* of

St. Thomas, in 12 days, but her being fitted up as a Slave-vessel, and her having cleared out for the Coast of Africa, renders this very improbable. As, however, I could not learn any thing certain about the Slaves that she is rumoured to have landed on the Coast, I thought it better not to denounce her to the Captain General.

On the 26th, the Schooner "*Primera Gallega*" D. Joze Balandra, Master, arrived here in ballast, after having landed her Cargo of Slaves on the Coast, near Vanes. I have the honour to enclose Copies of the Correspondence which passed between myself and the Captain General on this occasion, by which your Lordship will perceive, that he continues to found the innocence of the Vessel, on there being no mention of her traffick in the Log-book.

The suspicious Brig "*Pirro*," mentioned in my Despatch of the 2d September last, has cleared out for Corunna, but there is every reason to believe that her real destination is the Coast of Africa.

I have the honour to be, &c.

(Signed) W. S. MACLEAY.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

First Enclosure in No. 109.

*The British Commissioner of Arbitration to the Captain General.*

Havana, October 30, 1828.

THE Undersigned, Commissioner of His Britannick Majesty, has the honour to acquaint His Excellency the Captain General, that, in pursuance of his duty, he will be under the necessity of informing his Government of the arrival in this Port of the Spanish Schooner "*Primera Gallega*," D. Joze Balandra, Master, after having landed on the Coast a Cargo of Negroes.

The Undersigned avails himself, &c.

His Excellency the Captain General.

(Signed) W. S. MACLEAY.

Second Enclosure in No. 109.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, November 3, 1828.

I HAVE received your Letter of the 30th Ult., informing me, that it will be your duty to inform your Government of the arrival in this Port of the Spanish Schooner "*Primera Gallega*," after having disembarked a Cargo of Slaves; in reply, I have to state, that, in obedience to the Royal Order of my august Sovereign, dated 2d January 1826, I have this day addressed the necessary Letter to the Officer Second in Command over the Naval Forces on this Station, directing him to proceed to the proper investigation, which I shall make you duly acquainted with.

God preserve you many Years.

The Commissioner of His Britannick Majesty.

(Signed) F. D. VIVES.

Third Enclosure in No. 109.

(Translation.)

*The Captain General to the British Commissioner of Arbitration.*

SIR,

Havana, November 5, 1828.

IN a Letter, dated Yesterday, the Officer Second in Command over the Naval Forces on this Station, writes me as follows:—

"Most Excellent Sir,—The Commandant of the Registers of this Island has written me, under date of the 28th Ult., that having examined the Log-books of the Spanish Schooner "*Primera Gallega*," which anchored in this Port on the 26th, coming from the Island of St. Thomas, he finds nothing to shew that this Mercantile expedition has been employed in the prohibited traffick of Bozal Negroes. I transmit this information to your Excellency, in answer to your Letter of Yesterday, enclosing me the Translation of one which Your Excellency has received, relative to this Vessel, from His Britannick Majesty's Commissioner, Don Guillermo S. Macleay.

I now transcribe the above passage for your information; and may God preserve you many Years.

(Signed) F. D. VIVES.

The Commissioner of His Britannick Majesty.

HAVANA.

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No. 110.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, December 27, 1828.*

I HAVE received the Despatches of Mr. Macleay up to the 4th of November last.

I have the satisfaction to acquaint you, that His Majesty's Government approve of your proceedings in the Case of the *Spanish Vessel "Intrepido;"* and of your transmission to the Lieutenant Governor of Jamaica, of the Documents purporting that a Subject of His Majesty, resident in Jamaica, had been implicated in the concerns of that Vessel; so as to enable His Excellency to make enquiry into the conduct of that Individual.

I am, &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

## RIO DE JANEIRO.

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No. 111.

*Henry Hayne, Esq. to John Backhouse, Esq.—(Received March 4.)*

SIR,

*Brighton, February 25, 1828.*

AFTER mature deliberation, I have come to the determination to make my Petition to you for an extension of my Leave of Absence.

My own feelings regarding my state of constitutional debility, combined with the decided opinion of my Medical Advisers, to remain as long as possible from the Climate which has so enervated me, have suggested to me the necessity of taking this step.

I should therefore feel obliged, Sir, by your naming the Case to Lord Dudley, and requesting the indulgence of 6 Weeks, beyond the leave already granted, at the expiration of which, I trust I shall be ready, and in a fitter state to return to my Post, than I am at this moment.

I have &c.

*John Backhouse, Esq.*  
 &c. &c. &c.

(Signed) HENRY HAYNE.

No. 112.

*The Earl of Dudley to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, March 6, 1828.*

I HEREWITH transmit to you His Majesty's Commission, bearing date the 15th of January 1828, constituting and appointing you to be His Majesty's Commissioners at Rio de Janeiro, under the Convention concluded in that City between Great Britain and *Brazil*, on the 23d of November 1826, for the regulation and final abolition of African Slave-trade, and pursuant to an Act of Parliament, passed in the 58th Year of the Reign of His late Majesty, for carrying into effect a Convention between this Country and *Portugal*, for preventing illegal traffick in Slaves, and pursuant also to an Act, passed in the 8th Year of the Reign of His present Majesty, for carrying into effect the above-mentioned Convention.

You will at the earliest opportunity, after the receipt of this Despatch, take an oath according to the form prescribed in the said Act of the 58th of George III.

You will also convene a Meeting, between yourselves and the Commissioners who may have been appointed on the part of The Emperor of Brazil, for carrying into effect the Convention of November 23, 1826, and you will exhibit your Commission to such Commissioners, and permit them, if required, to take a Copy thereof.

You will also invite the said Commissioners to exhibit to you a corresponding Commission on the part of their Sovereign, The Emperor of Brazil; and, having ascertained that it is in proper form, you will send to His Majesty's Secretary of State for Foreign Affairs a transcript thereof, accompanied with any remarks which may suggest themselves to you thereupon; and you will proceed to the execution of such duties as may be required of you, and as you may be authorized to transact in virtue of the said Commissions of Appointment.

You will bear in mind the Instructions which have been heretofore addressed to you, as His Majesty's Commissioners, as well under the Convention



between this Country and *Portugal*, as under the relations which have subsequently grown up between this Country and *Brazil*, prior to your receipt of the present Appointment.

You will obey those Instructions so far as they shall be consistent with the Stipulations of the present Convention.

I herewith transmit to you, for your information and guidance, Copies of the Convention, and Acts of Parliament, under which you will have to act.

Further Instructions and Directions will be issued to you from time to time, as circumstances shall require.

I am, &c.

(Signed) DUDLEY.

*His Majesty's Commissioners.*

No. 113.

*His Majesty's Commissioners to The Earl of Dudley.—(Received March 10.)*

MY LORD,

*Rio de Janeiro, January 6, 1828.*

IN conformity with our Instructions, we beg leave to inform your Lordship, that no Slave-vessel has been brought into this Port for adjudication, since our last Half-Yearly Report of the 5th of July 1827.

We have the honour to be, &c.

(Signed)

A. J. HEATHERLY.

*The Right Hon The Earl of Dudley,*  
&c. &c. &c.

ALEX. CUNNINGHAM.

No. 114.

*John Backhouse, Esq. to Henry Hayne, Esq.*

SIR,

*Foreign Office, March 13, 1828.*

HAVING laid before the Earl of Dudley your Letter of the 25th of February 1828, requesting an extension of 6 Weeks' leave, beyond the period to which your leave of absence had already been prolonged; I am directed by his Lordship to acquaint you, that, under the circumstances of ill health represented by you, he consents to your request.

I am, &c.

*Henry Hayne, Esq.*

(Signed)

J. BACKHOUSE.

No. 115.

*Henry Hayne, Esq. to John Backhouse, Esq.—(Received May 10.)*

(Extract.)

*London, May 7, 1828.*

WHEN I had last the honour of addressing you, I applied for only 6 Weeks' leave of absence, in the hope that I should, at the expiration of that time, be well enough to embark; but, in the interim, I have been so much reduced by a severe relapse, that I am wholly unfitted to return to my Post at present, as my appearance, as well as the Medical Certificate which I have the honour to enclose, will testify. I earnestly trust, that, in consideration of

my shattered constitution, his Lordship will be pleased to extend to me all the indulgence possible, both as regards the time required to put me in a state to embark, and the time I shall have to serve at my Post, if, by the blessing of God, I am permitted to reach it.

*John Backhouse, Esq.*  
*&c. &c. &c.*

(Signed) HENRY HAYNE.

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Enclosure in No. 115.

*Medical Certificate.*

I WAS consulted by Mr. Hayne some time after his arrival from Rio in 1827, and found his health materially broken under the influence of that Climate, his restorative powers have gradually, but *unequally*, risen since his arrival in the temperate Climate of Great Britain.

I am of opinion, that his immediate return is inadmissible; but from the progress towards convalescence, which he has already made, that his health will, if he suffer no relapse, be sufficiently restored, in the course of 4 or 6 Months, to enable him to cope with the Climate of Rio; especially if any arrangement can be made which shall enable him to escape the three severe Months of December, January, and February.

(Signed) JOHN RICHARD FARRE, M.D.

4, Charter-House-Square, May 7, 1828.

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No. 116.

*John Backhouse, Esq. to Henry Hayne, Esq.*

(Extract.)

*Foreign Office, June 17, 1828.*

TAKING into consideration the state of your health, Lord Aberdeen farther consents to grant to you an additional leave of absence in this Country, for 3 Months from this present time, at the end of which, you will be expected to return to your Post without fail.

(Signed) J. BACKHOUSE.

*Henry Hayne, Esq.*

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No. 117.

*Henry Hayne, Esq. to John Backhouse, Esq.—(Received June 24.)*

(Extract.)

*Tunbridge Wells, June 23, 1828.*

I HAVE the honour to acknowledge the receipt of your Letter of the 17th Instant, in reply to a Memorial I had the honour of transmitting to you on the 7th May last, for the Earl of Dudley's consideration.

I have to express my thanks for the additional 3 Months' leave of absence, which Lord Aberdeen has been pleased to grant to me, in consideration of my state of health, as well as my anxious hope, that, at the expiration of that time, I may be in a state to embark.

(Signed) HENRY HAYNE.

*John Backhouse, Esq.*  
*&c. &c. &c.*

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No. 118.

*His Majesty's Commissioners to The Earl of Dudley.—(Received July 8.)*

MY LORD,

*Rio de Janeiro, April 28, 1828.*

WE have had the honour to receive your Lordship's Despatch, dated March 6, 1828, transmitting to us His Majesty's Commission, bearing

date January 15, 1828, constituting and appointing Henry Hayne, Esq. and Alexander Cunningham, Esq. His Majesty's Commissioners at Rio de Janeiro, under the Convention concluded in that City between Great Britain and *Brazil*, on the 23d of November 1826, for the regulation and final abolition of African Slave-trade, and pursuant to an Act of Parliament, passed in the 58th Year of the Reign of His late Majesty, for carrying into effect a Convention between Great Britain and *Portugal*, for preventing illegal traffick in Slaves, and pursuant also to an Act passed in the 8th Year of the Reign of His present Majesty, for carrying into effect the above-mentioned Convention.

In conformity with your Lordship's Instructions, Mr. Alexander John Heatherly, His Majesty's Acting Consul General, now doing the duty of Commissary Judge, during the leave of absence granted to Mr. Hayne; and Mr. Cunningham, Commissioner of Arbitration, will not fail, as soon as possible, to take the oath, according to the form prescribed in the said Act of the 58th Geo. III.

We will also, in obedience to your Lordship's commands, convene a Meeting between ourselves and the Commissioners who have been appointed on the part of The Emperor of *Brazil*, for carrying into effect the Convention of the 23d of November 1826, for the purpose of exhibiting our Commission to such Commissioners, and permit them, if required, to take a Copy thereof.

We will not fail, likewise, to invite the said Commissioners to exhibit to us a corresponding Commission on the part of their Sovereign, The Emperor of *Brazil*; and, having ascertained that it is in proper form, we will send to His Majesty's Secretary of State for Foreign Affairs, a transcript thereof, accompanied by such remarks as may suggest themselves to us thereon.

We will also proceed to the execution of such duties as may be required of us, and as we may be authorized to transact, in virtue of the said Commissions of Appointment.

We will bear in mind the Instructions which have heretofore been addressed to us, as His Majesty's Commissioners, as well under the Convention between England and *Portugal*, as under the relations which have subsequently grown up between Great Britain and *Brazil*, prior to our having received the present Appointment, and we will implicitly obey those Instructions, so far as they shall be consistent with the stipulations of the present Convention.

We have also to acknowledge the receipt of 6 Copies of the Convention and Acts of Parliament, which your Lordship has done us the honour to transmit, for our information and guidance, and under which we shall have to act.

We have, &c.

(Signed)

A. J. HEATHERLY.  
A. CUNNINGHAM.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 119.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Sept. 12.)*

MY LORD,

*Rio de Janeiro, July 10, 1828.*

IN obedience to our Instructions, we have the honour to inform your Lordship, that no Slave-vessel has been brought into this Port for adjudication since our last Half-Yearly Report of January 6, 1828.

We have, &c.

(Signed)

A. J. HEATHERLY.  
ALEX. CUNNINGHAM.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

No. 120.

*His Majesty's Commissioners to The Earl of Dudley.—(Received Sept. 12.)*

MY LORD,

Rio de Janeiro, July 10, 1828.

IN conformity with your Lordship's Instructions, after the receipt of your Lordship's Despatch, dated March 6, 1828, we took the earliest opportunity to convene a Meeting between ourselves and the Commissioners appointed on the part of The Emperor of *Brazil*, for carrying into effect the Convention of the 23d of November 1826, when we exhibited our Commissions to such Commissioners, and, at their request, permitted them to take a Copy thereof.

On the 25th of June, we took the oath before the Chancellor Mor of this Empire, according to the form prescribed in the Act of the 58th of Geo. III., and, having obtained from the *Brazil* Commissioners, a transcript of their Commissions on the part of their Sovereign, The Emperor of *Brazil*, we have now the honour to enclose the same to your Lordship, with Translations thereof, together with a Copy and Translation of the Protocol of the Commission Court, held on the 1st Instant.

The Diplomas granted to the Brazilian Commissioners by His Imperial Majesty, appear to us to be drawn up in a proper form, and we have no other remark to make, than to state, that hitherto we have every reason to be satisfied with the propriety and deportment of Senor Joao Carneiro de Campos, and Senor Joao Pereira de Souza's conduct towards us, whenever our duty has called upon us to meet them.

We have, &amp;c.

(Signed)

A. J. HEATHERLY.  
ALEX. CUNNINGHAM.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

First Enclosure in No. 120.

(Translation.)

*Commission of Appointment of Senor Joao Carneiro de Campos, as  
Brazilian Commissary Judge.*

IT having been stipulated by the 4th Article of the Convention, concluded on the 23d November 1826, between this Empire and England, for the abolition of the Slave-trade, that Mixed Commissions should be forthwith appointed, after the form of those already established under the Additional Convention of the 28th of July 1817, between *Portugal* and Great Britain, and as it is necessary to employ different Persons to fulfil the Mixed Commission of this City;—1, reposing especial trust and confidence in the wisdom and other qualities of Joao Carneiro de Campos, of my Council, have named and appointed him to be the Commissary Judge, *ad interim*, of the said Mixed Commission, with the Salary of 1,200 Milreis Yearly.

The Marquis of Aracaty, Minister and Secretary of State for Foreign Affairs, will so understand and will give all the necessary directions.

Palace of Rio de Janeiro, May 14th 1828.—7th Year of the Independence of the Empire.  
With the Signature of His Majesty The Emperor. (Signed) MARQUIS OF ARACATY.

True Copy, (Signed) BENTO DA SILVA LISBOA.

Sworn before me, on the 25th June 1828. (Signed) MONSENHOR MIRANDA.

(Signed) THEOPHILO DE MELLO, Interpreter.

Second Enclosure in No. 120.

(Translation.)

*Commission of Appointment of Senor Joao Pereira de Souza, as Brazilian  
Commissioner of Arbitration.*

IT having been stipulated by the 4th Article of the Convention, concluded November 23d 1826, between this Empire and England, for the abolition of the Slave-trade, that Mixed Com-

missions should be forthwith appointed, after the form of those already established, under the Additional Convention of July 28th 1817, between Portugal and Great Britain; and, as it is necessary to employ different Persons to fulfil the Mixed Commission Court of this City;—I, reposing especial trust and confidence in the wisdom and other qualities of Joao Pereira de Souza, have named and appointed him to be the Commissioner of Arbitration of the said Mixed Commission, with a Salary of 1,000 Milreis Yearly.

The Marquis of Aracaty, Minister and Secretary of State for Foreign Affairs, will so understand and will give all the necessary directions.

Palace of Rio de Janeiro, May 14, 1828.—7th Year of the Independence of the Empire.

With the signature of His Majesty The Emperor. (Signed) MARQUIS OF ARACATY.

True Copy, (Signed) BENTO DA SILVA LISBOA.

Sworn before me, June 25, 1828, (Signed) MOSENHOR MIRANDA.

(Signed) THEOPHILO DE MELLO, Interpreter.

### Third Enclosure in No. 120. (Translation.)

#### *Protocol of the Mixed Commission. 1st July 1828.*

ON the 1st of July 1828, in the very loyal and heroic City of Rio de Janeiro, and in the Audience Chamber of the Mixed Commission, relative to the Slave-trade; appearing, on the part of His Imperial Majesty The Emperor of the Brazils, the Judge Commissioner, *ad interim*, Joao Carneiro de Campos, and the Judge of Arbitration, Joao Pereira de Souza, and, on the part of His Majesty The King of the United Kingdom of Great Britain and Ireland, the Vice Consul, Alexander John Heatherly, acting for, and doing the duties of, Consul General, and of Judge Commissioner, during the absence of Judge Commissioner Henry Hayne; and the Arbitrating Commissioner, Alexander Cunningham: the Brazilian Commissioners having laid before the Board, the Diplomas of their Nominations as under written, and the British Commissioners having presented their Diplomas in the Sitting of the 29th of April last past; and I, Braz Martins Costa Passos, the Diploma of Nomination to my place of Secretary, also underwritten; and all of the aforesaid Commissioners having taken their oaths in the presence of each other, and under the hands of the Chancellor Mor of the Empire, the Desembargador do Paso, Monsenhor Miranda, and I, the Secretary, under the hands of the Brazilian Judge Commissioner, all under the Form of the Convention of the 23d of November 1826, and of the 28th July 1817, in addition to the Treaty of the 22d of January 1815; they were unanimously acknowledged to be possessed of sufficient authority to exercise, conjunctively, the jurisdiction which, by the aforesaid Convention, belongs to the Mixed Commission; and thereupon was ordered the publication of the corresponding Edict, with a Copy of the underwritten Decree, by which His Imperial Majesty The Emperor of the Brazils, was pleased to name the Subaltern Officers to be employed in this Commission.

And in order to verify this Act of Installation, I have passed this present Document, which the said Commissioners have signed with me.

(Signed)

ALEXANDER JOHN HEATHERLY.

JOAO CARNEIRO DE CAMPOS.

ALEXANDER CUNNINGHAM.

JOAO PEREIRA DE SOUZA.

BRAZ MARTINS COSTA PASSOS, *Secretary*.

(Signed)

THEOPHILO DE MELLO, Interpreter.

### No. 121.

#### *His Majesty's Commissioners to The Earl of Aberdeen.— (Received September 27.)*

MY LORD,

*Rio de Janeiro, August 5, 1828.*

WE have had the honour to receive your Lordship's Despatch, dated 30th May 1828, acquainting us that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Principal Secretary of State for Foreign Affairs, and to confide to your Lordship the Seals of that Office.

We shall accordingly obey your Lordship's commands, by addressing our future Despatches, and Letters on publick business, to your Lordship, and we will not fail to pay due attention to such Orders and Instructions as we may receive from your Lordship, for our guidance and information.

We have, &c.

(Signed)

A. J. HEATHERLY.

ALEX. CUNNINGHAM.

*The Right Hon. The Earl of Aberdeen.*

&c.

&c.

&c.

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## No. 122.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, September 27, 1828.

I HEREWITH transmit to you, for your guidance, the Copy of an Instruction which, in accordance with the opinion of The King's Advocate, I addressed, on the 18th Instant, to His Majesty's Commissioners at the Havana, upon the question, whether the presence of the Commander of a Capturing Ship is necessary to the due adjudication of a Prize.

I am, &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

## No. 123.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

Foreign Office, November 7, 1828.

I HAVE received your Despatches up to the 5th of August 1828.

Your Despatch of the 10th of July, containing Copies and Translations of the Commissions granted on the part of The Emperor of *Brazil*, to His Imperial Majesty's Commissioners of the Mixed Commission at Rio de Janeiro, has been referred for the opinion of His Majesty's Advocate General.

The King's Advocate has reported, that the Appointments of the Brazilian Commissary Judge, and Commissioner of Arbitration, appear to be in due and proper form, and that as the Protocol of the Commission Court states, that all the Commissioners have taken the Oath prescribed by the Treaty, he is of opinion, that the Court is duly constituted, and sufficiently authorized to take cognizance of such Cases as may be brought before it under the Provisions of the Treaty.

I am, &amp;c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

## No. 124.

*His Majesty's Commissioners to The Earl of Aberdeen.—(Received Dec. 14.)*

MY LORD,

Rio de Janeiro, October 7, 1828.

WE have the honour to acknowledge the receipt of your Lordship's Despatch of the 9th of July 1828, accompanied, for our information, by 6 Copies of Papers, marked A and B. relative to the Slave-trade, which had been presented to both Houses of Parliament, by His Majesty's Command, during the course of the last Session.

We have, &amp;c.

(Signed) A. J. HEATHERLY.  
ALEX. CUNNINGHAM,

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

No. 125.

*Henry Hayne, Esq. to The Earl of Aberdeen.—(Received December 14.)*

MY LORD,

*Rio de Janeiro, October 21, 1828.*

IN compliance with the Standing Order from His Majesty's Principal Secretary of State, bearing date the 31st of January 1824, I have now the honour to inform your Lordship of my having arrived at my Post, to resume my duties at the Mixed Commission, Yesterday, the 20th Instant.

I have, &amp;c.

(Signed)

HENRY HAYNE.

*The Right Hon. The Earl of Aberdeen,*  
           &c.                   &c.                   &c.

## SURINAM.

No. 126.

*C. E. Lefroy, Esq. to The Earl of Dudley.—(Received Feb. 5, 1828.)*

MY LORD,

Surinam, December 13, 1827.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, dated June 28, 1827, informing me, that His Majesty's Government had had the satisfaction of receiving, through the British Ambassador, an Answer from the Netherland Government, on the subject of the want of Cruizers for the suppression of the Slave-trade in this Colony, of which I had complained, in my Despatch of the 1st of February last, and transmitting to me a Copy of the Despatch of Sir Charles Bagot, dated June 18, 1827, and of the Note Verbale, delivered to him by M. Verstolk, upon that subject.

I have the honour to be, &c.

(Signed)

CHRIS. EDWD. LEFROY,

*The Right Hon. The Earl of Dudley.*

&c.

&c.

&c.

No. 127.

*The Earl of Aberdeen to His Majesty's Commissioners..*

GENTLEMEN,

Foreign Office, June 17, 1828.

I HAVE to acquaint you, that a Communication has been received at this Office from the Admiralty, under date of the 19th of May, stating, that the Instructions referred to in the Treaty between Great Britain and The Netherlands for the suppression of illegal Slave-trade, have been issued to the following Ships and Vessels of His Majesty's Navy, viz. :—

Guns.	Ships.	Commanders.
48 .....	<i>Sybilie</i> .....	F. A. Collier.
46 .....	<i>Aurora</i> .....	C. J. Austen.
" .....	<i>Briton</i> .....	Hon W. Gordon.
26 .....	<i>Eden</i> .....	W. F. W. Owen.
18 .....	<i>Espiegle</i> .....	W. Sandom.
10 .....	<i>Bustard</i> .....	G. S. Smith.
" .....	<i>Fairy</i> .....	J. O'Brien.
12 .....	<i>Clinker</i> .....	Lt. W. G. W. Matson.
" .....	<i>Plumper</i> ...	E. Medley.
3 .....	<i>Black Joke, Tender,</i>	H. Downs.

and that the Instructions which had been issued to His Majesty's Ships "Druid," "Maidstone," "Atholl," "Brazen," "Esk," "Pylades," "Redwing," "Scylla," and "Conflict," have been recalled and cancelled.

I have accordingly to desire, that you will communicate this information to the Mixed Board of Commission of which you are Members.

I am, &c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*



No. 128.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, September 27, 1828.*

I HEREWITH transmit to you, for your guidance, the Copy of an Instruction which, in accordance with the opinion of The King's Advocate, I addressed, on the 18th Instant, to His Majesty's Commissioners at the Havana, upon the question, whether the presence of the Commander of a Capturing Ship is necessary to the due adjudication of a Prize.

I am, &c.

(Signed)

ABERDEEN.

*His Majesty's Commissioners.*

No. 129.

*C. E. Lefroy, Esq. to The Earl of Dudley—(Received October 7.)*

(Extract.)

*Surinam, July 29, 1828.*

I HAVE the honour to inform you, that General Van den Bosch, His Netherland Majesty's Commissary General for the Visitation and Regulation of the Dutch West Indies, is about to leave us in a few days, on his return to Holland, after having reconstructed the Government upon new and improved principles.

I am rejoiced to say, that I am informed that the new Laws for regulating the treatment and privileges of the different classes, are of a most liberal and benevolent character towards the Slaves, and people of Colour, even exceeding, in some respects, the provisions of the British Orders in Council.

All distinctions of Colour, between free People are, I understand, to be done away, and the Slaves in general are to be no longer regarded as *Things*, but distinctly recognized as *Persons*; and as one of the first privileges of moral agency, their Evidence is to be admitted in Courts of Justice; upon the same principles as that of other Individuals; viz. credibility of character.

There is also a Protector appointed for them, whose duties, I understand, will correspond very much with those of the Protector, under the British Orders in Council.

It gives me scarcely less pleasure to transmit to your Lordship an Advertisement, acknowledging the necessity of the further diffusion of Christian Instruction amongst the Slaves, and establishing a Society, with the approbation and authority of His Excellency the Lord High Commissioner, for that purpose.

(Signed)

C. E. LEFROY.

*The Right Hon. The Earl of Dudley,*

&c.

&c.

&c.

Enclosure in No. 129.

(Translation.)

*Advertisement of a Society for the Religious Instruction of Slaves at Surinam.*

*From the Surinam Courant of July 23, 1828.*

THE Undersigned, having satisfied themselves of the necessity of adopting means for effectually propagating the Christian Religion among the Slaves, and other Pagan Inhabitants of this Colony; and being convinced that this end can most properly be attained by means of Missionaries from the Congregation of Moravian Brethren, whose past efforts have already been attended with so much success; they have, with the approbation and authority of His Excellency the Commissary General of His Majesty's West India Possessions, united, in order to form a Society for the dissemination of the Christian Religion among the Slaves, and the other Pagan Inhabitants of the Settlement, by means of Missionaries to be deputed by the Congregation of Moravian Brethren.

Entertaining no doubt that these, their endeavours, for bringing about an object so salutary, will meet with the approbation of all well-disposed persons, the Undersigned take the liberty of herewith inviting every one desirous of joining this Society, to inform the Undersigned of such intencion, to enable the Applicants to enter themselves as Members of the Society; under an understanding, that Members do thereby take on themselves no other obligation than that of paying an Annual Contribution into the Fund, which may be found requisite for carrying the said purpose into effect, and which Contribution shall amount to, if agreeable, upwards of, but not less than, 2 florins and 50 centimes.

Paramaribo, 22d July, 1828.

(Signed)

E. L. VAN HERCKEREN.  
AS. ROELOFSZ, V. D. M.  
DO. JANSSEN EIJKEN SLUIJERS.  
H. R. HAYUNGA.  
F. BENDEKER.

### No. 130.

*The Earl of Aberdeen to His Majesty's Commissioners.*

GENTLEMEN,

*Foreign Office, October 22, 1828.*

I HEREWITH forward to you the Commission, bearing date the 21st day of October 1828, by which His Majesty was graciously pleased to appoint Mr. John Henry Lance to be His Majesty's Commissary Judge, and Mr. Campbell James Dalrymple to be His Majesty's Commissioner of Arbitration, to the Mixed British and Netherland Commission, established at Surinam, under the Treaty concluded on the 4th of May 1818, between Great Britain and The Netherlands, for the prevention of the illegal Slave-trade, and pursuant to the Acts of Parliament which have been passed for carrying that Treaty into effect.

You will, at an early opportunity, after your arrival at Surinam, take in due form the oath prescribed to you by the enclosed Instrument, prior to the entering upon your further respective duties, in the character assigned to you in His Majesty's Commission of Appointment.

You will announce these Appointments to the Foreign Members of the Mixed Commission destined to act with you under the Treaty above-mentioned.

You will strictly follow the line of conduct pointed out in the Instructions, which have heretofore been given by His Majesty's Secretary of State to His Majesty's Commissioners at Surinam.

Further Instructions will, by His Majesty's Command, be transmitted to you, according as it shall appear that such Instructions shall be necessary for your guidance.

I am, &c.

(Signed) ABERDEEN.

*His Majesty's Commissioners.*

### No. 131.

*C. E. Lefroy, Esq. to The Earl of Dudley.—(Received November 18.)*

(Extract.)

*Surinam, August 27, 1828.*

IN May last, I had a visit from Captain Lloyd, of His Majesty's Ship "Victor," whom I had the honour of introducing to the Lord High Commissioner of His Netherland Majesty, General Van den Bosch, and our present Governor, Rear Admiral Sir Paulus Roeloff Cantzlaar.

Captain Lloyd informed us, that he had been making a very careful inspection of the whole Coast of the Colony, standing in within 2 French leagues of the Shore almost the whole way, although the "Victor" draws 15½ feet water; and that he observed nothing that indicated the existence of any illicit Slave-trading, at present, on any part of the Coast.

Captain Lloyd and myself suggested to General Van den Bosch, the possibility of the illegal introduction of Africans into this Colony, over land,

through the French Colony of Cayenne; but His Excellency said, that, from there being a Settlement of *Noirs Maroons* (Bush Negroes) on the River Marewana, which divides the 2 Colonies, who would probably intercept and seize them for themselves, as they knew their importation into this Colony to be illegal, he thought such an experiment would be too hazardous for any one to engage in it.

I am happy to communicate to your Lordship the foregoing circumstance, as it tends to the confirmation of the hopes, which I have before ventured to express, that at length the Slave-trade in this Colony, for the present, is over-come.

(Signed) C. E. LEFROY.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

No. 132.

*C. E. Lefroy, Esq. to The Earl of Aberdeen.—(Received November 29.)*

(Extract.)

*Surinam, September 23, 1828.*

BY a Schooner from Barbadoes, which arrived here on Friday last, the 19th Instant, I have had the honour to receive your Lordship's Circular, dated 30th of May, acquainting me that The King had been pleased to accept of The Earl of Dudley's resignation of the Office of Principal Secretary of State for Foreign Affairs, and to confide to your Lordship the Seals of that Department; and, in consequence, directing me to address to your Lordship my future Despatches and Letters on publick business, to be laid before The King, and to receive from your Lordship such Orders and Instructions as His Majesty shall think proper to give for my guidance and direction.

I have also the honour to acknowledge the receipt, at the same time, of your Lordship's Despatch, dated June 17 1828, announcing to me a Communication, received at the Foreign Office, from the Admiralty, under date of the 19th of May, respecting the issue and recall of the Instructions, under the Treaty between Great Britain and The Netherlands, for the suppression of illegal Slave-trade, to and from the several Ships and Vessels of His Britannick Majesty's Navy, therein particularly specified; with a Copy of which, in obedience to your Lordship's desire therein expressed, I have already supplied my Colleagues in the Mixed Board of Commission, of which I am a Member.

(Signed) C. E. LEFROY.

*The Right Hon. The Earl of Aberdeen,*  
*&c. &c. &c.*



**Class B.**

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**CORRESPONDENCE**

WITH

**FOREIGN POWERS,**

RELATING TO

**THE SLAVE TRADE.**

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1828.

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*Presented to both Houses of Parliament, by Command of His Majesty,  
1829.*

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LONDON :

PRINTED BY R. G. CLARKE,

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## Class B.

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# Class B.

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## CORRESPONDENCE

WITH

## FOREIGN POWERS.

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### SPAIN.

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#### No. 1.

*The Earl of Dudley to The Conde de Ofalia.*

*Foreign Office, January 10, 1828.*

THE Undersigned, &c. has received the 2 Notes which the Conde de Ofalia, &c. under the dates of the 10th of September, and the 10th of December, 1827,\* did The Earl of Dudley the honour to address to him, on the subject of the intention, which had been intimated to the Spanish Government, of removing to the Island of *Fernando Po*, the united British and Foreign Slave-trade Commissions, now established at Sierra Leone.

This intimation was made to the Spanish Government, through Mr. Lamb, His Majesty's Envoy at Madrid, so far back as the Month of February, 1826.

The Duke del Infantado, in his Answer of the 3d of April, of the same Year, stated, "that The King, his Master, was only waiting for detailed information as to the possibility of realizing the plan in question, before he should accede to the proposal which formed the subject of Mr. Lamb's Note."

On Mr. Lamb's application to the Duke del Infantado, to learn from whom he expected the further circumstantial details which he demanded, and to what points these details related, the Duke answered, "that he expected these details from the British Government; that they related to the Agreements to be made with the Inhabitants, and to the possibility of erecting habitations;" and the Duke added, that whenever Mr. Lamb could notify to him, that the Commission could be lodged on the Island, His Catholick Majesty would name a Commissioner to proceed there.

Upon these grounds, as well as upon the accession of the other Powers concerned in the proposed Arrangement, Captain Owen has been sent out, for the purpose of making the necessary Agreements with the Inhabitants of *Fernando Po*, and, when made, to erect habitations on the Island for the Commission.

\* See Enclosures in No. 6.

From the Notes of the Conde de Ofalia, however, it now appears, that the Spanish Government wish to qualify their expressions of coincidence in this Arrangement, and, setting up a right to the property and possession of the Island, make objections to the Arrangement, unless under terms of purchase from the Crown of Spain. His Majesty's Government have had no other view in the plan, but that which they expressed at the time of its proposal; namely, the carrying into effect of the suggestion repeatedly made by the Courts of Madrid and Lisbon, for the removal of the Commissions from Sierra Leone to a more healthful Spot.

His Majesty's Government, therefore, little expected, when this plan was half completed, such a reclamation from the Crown of Spain, in obstruction of a plan to which it was supposed that they had given their consent, which was proposed as mutually advantageous to all the Parties concerned, and in which considerable expence has been unwarily incurred by this Country from the implied consent of the Crown of Spain. If, however, the Spanish Government persist in their objection to the establishment of the Commission at Fernando Po, His Majesty's Government will instantly, in the same spirit in which the plan was proposed, dispatch orders to stop the whole proceedings of Captain Owen, and to bring away the materials which have been there disembarked for the construction of the residence of the Commissions; but the Undersigned must, at the same time, frankly state to the Conde de Ofalia, for the information of his Court, that His Majesty's Government cannot agree to enter into any negociation for the purchase of the Island. The consent of the Crown of Spain, to the establishment there of the Sierra Leone Commission, must either be given gratuitously, or altogether withheld.

The Undersigned avails himself, &c.

*The Conde de Ofalia,*  
&c. &c. &c.

(Signed) DUDLEY.

## No. 2.

### *The Conde de Ofalia to The Earl of Dudley.*

(Translation.)

*London, January 19, 1828.*

THE Undersigned, &c. has received the Note which His Excellency The Earl of Dudley, &c. did him the honour of addressing to him, under date the 10th Instant, in reply to those of the 10th September, and 10th December, in which the Conde de Ofalia, by express order of his Government, had requested some explanations, and made reclamations, concerning the Appointment of Captain Owen, as *Governor of Fernando Po*, and concerning what, on more or less authority, had been stated, both in the publick Journals and in some Letters, relative to a plan of *military occupation* and *colonization* of that Island, which is the property of *Spain*, in virtue of the Treaty of 1778, and of which the *Portuguese* Government, with solemn formality, gave possession to that of *Spain*, on the Territory itself, October 24th of that Year.

Lord Dudley's Note chiefly purports, that, from the Reply given by the Duke del Infantado, the Spanish Minister of State, to Mr. Lamb, on the 3d of April 1826, His Britannick Majesty's Government had imagined, that the Spanish Government had conceded the necessary permission for effecting the transfer of the Mixed Commission from Sierra Leone to Fernando Po; but, whatever latitude it might be attempted to give to the expressions of the Duke del Infantado, to which Lord Dudley refers, the perusal of that Reply will convince every one, that, though it evinces a *favourable disposition*, as to the desired transfer, there still does not appear a real and formal *concession* of the permission on the part of Spain, in her capacity of Mistress of the Territory, to make the transfer in question.

What, however, deserves to be fully appreciated, and what the Spanish Government will not fail to consider in its proper light, is the honourable and frank offer of Lord Dudley, to give orders to Captain Owen to desist from the undertaking, and to withdraw the materials disembarked for constructing the

residence of the Mixed Commission, in case the Spanish Government should manifest any opposition to the establishment of it in the Island of Fernando Po; and the Undersigned has not lost a moment in communicating it to his Government, with all the other particulars contained in His Excellency's Note; for, though the Conde de Ofalia is authorized by his Instructions to propose to the Government of His Britannick Majesty, the cession, on the part of Spain, of the property and Sovereignty of the Islands of *Annabon* and *Fernando Po*, upon just and reasonable conditions, he is not instructed to treat, separately, on the subject of the transfer of the Mixed Commission distinctly from the proposed alienation.

If the Question be confined solely to the point of permitting the transfer, and even if the Spanish Government be disposed to concede it, such permission, it would seem, cannot be yielded, unless it be either preceded, or accompanied, by some Arrangement, for reconciling the desire of His Catholick Majesty to gratify His Britannick Majesty, with the preservation of the rights of Property, acquired in virtue of the Treaty of 1778, and with the possession, formally and solemnly given to His Catholick Majesty, by the Portuguese Government, by the Act which the Undersigned does not deem it irrelevant to enclose a Copy to Lord Dudley.

The concession of the permission itself, on the part of Spain, though it should have taken place, would by no means dispense with the necessity for explanations, as to the *character of Governor*, said to have been conferred upon Captain Owen, and to the plan supposed to exist of *military occupation and colonization*; these being points totally distinct from the transfer of the Mixed Commission; as is likewise the subject of *the exercise of Local Authority in that Quarter*, which, it would appear, cannot be exercised, except in the name of the Proprietor of the Territory.

All these explanations would be rendered unnecessary, if England acquired the Property and Sovereignty of the above-mentioned Islands, in the manner proposed by the Spanish Government; but as Lord Dudley, in the conclusion of his Answer, leaves no opening to such an arrangement, the Conde de Ofalia cannot omit to call to His Excellency's mind, that the explanations in question are both desirable and necessary, and with regard to them, he refers to his above Notes of the 10th of September, and the 10th of December last.

The Undersigned, &c.

(Signed)

THE CONDE DE OFALIA.

*The Right Hon. The Earl of Dudley,*

&c.      &c.      &c.

Enclosure in No. 2.

(Translation.)

*Act of Cession, on the part of Portugal, of the Island of Fernando Po, to Spain. October 24, 1778.*

IN the Year, from the Birth of our Lord Jesus Christ, 1778, on the 24th of October, in this Island of *Fernando Po*, there being present, commissioned by the Most Faithful Queen, our Lady, the Most Illustrious Dom Fro. Luis Caetano de Castro, Gentleman of the Household of the same Sovereign Lady, Knight of the Order of Malta, and Captain of Sea and War, Commander of the Ship of "Our Lady of the Grace," and, on the part of the Catholick King, the Most Illustrious, the Conde de Argelexos, likewise commissioned by his Sovereign, and besides these two, there being also present those who accompanied them; it was declared before me, the Clerk of the above Ship, that he, Dom Fro. Luis Caetano de Castro, in virtue of the Orders of, and of the Commission which he had received from, the Most Faithful Queen, our Lady, and by the best form and mode of right, did cede and resign all the Jurisdiction, Royalties, Dominion, Demand, and right, which his Sovereign Lady had in this Island of Fernando Po, to the Person of the Catholick King, for that Sovereign and his Successors, to enjoy and possess it as their

own, and as an appurtenance annexed to the Kingdom of Spain, to which end, by virtue of the powers he possessed, he declared the Island to be dismembered from the Kingdom of Portugal; and, pursuant to the above Commission, the Most Illustrious, the Conde de Argelexos declared, that he accepted, on the part of his Sovereign, the cession just mentioned, and, in virtue of the same, and of the power conferred upon him, he scattered some earth into the air, plucked some branches from trees, and performed all the other acts of Occupation; proclaiming in a loud voice, which all distinctly heard, that, in fulfilment of the Commission which he held from the Catholic King, his Sovereign, he took possession of this Island of Fernando Po, as appertaining to the Kingdom of Spain; to the end that, from this day forward, the Inhabitants of it should acknowledge the said Sovereign for their Sovereign King, with full and supreme power: and I, Joao Ramos de Silva Mallos, Clerk to the Ship, "Our Lady of the Grace," took the same down in writing, by order of the Most Illustrious Dom Fro. Luis Caetano de Castro; the whole being witnessed by all the Undersigned, who subscribed it together with myself, and the 2 Commissioners, in this Bay of Fernando Po, on the 24th of October 1778.

(Signed) FR. LUIS CAETANO DE CASTRO.  
CONDE DE ARGELEXOS.

The Clerk of the Ship "Our Lady of Grace,"

JOAO RAMOS DE SA. MALLOS.  
(And 8 more Signatures.)

### No. 3.

*George Bosanquet, Esq. to The Earl of Dudley.—(Received January 31.)*

(Extract.)

*Madrid, January 7, 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch of the 13th of December 1827, (Slave-trade,) with its several Enclosures, and have in consequence addressed the enclosed Note to M. Salmon. Upon a subject already completely exhausted, I did not consider that any additional observations on my part were called for, and have therefore contented myself with merely communicating the facts related in the Reports from His Majesty's Commissioners, without comment.

It would have been a great satisfaction to me, to have been enabled to announce to His Majesty's Government, at the commencement of the present Year, that the efforts of His Majesty's Legation at this Court, in the cause of the abolition of the African Slave-trade, had been more successful than they have been, and that a fair prospect existed of any measures being adopted by the Spanish Government, to put an end to this great and increasing evil. I regret, however, to say, that appearances do not seem to indicate any such intention on their part at present; and that, either from indolence or some other cause, the Representations which have been made to them, during the course of last Year, appear to have been totally neglected. I have not failed, on various occasions, to call M. Salmon's attention to the subject, but have received from him nothing but vague and unsatisfactory answers; and when, a few day's since, I observed to His Excellency, that Mr. Lamb's Note of June 12th, 1827, still remained unanswered, and enquired whether it had yet been taken into consideration, he replied in such a way as to convince me that it had not, though a period of more than 6 Months had elapsed since it was written. It would be impossible to bring the question of our complaints before this Government in a more complete and detailed form than has been done in that Note, or to use stronger arguments in support of the necessity of some alteration in the existing Laws and Regulations for the prevention of the Slave-trade in the Spanish Colonies; neither can more decisive and incontestable evidence than that which has been obtained in the Case of the "Tres Manueclas," be furnished, in corroboration of all that is therein stated.



If the Spanish Government really intended to execute the Treaty of 1817 in spirit, it would not be difficult to devise effectual measures for this purpose, and, even if it might be felt dangerous to exercise too great a severity in the Colony of Cuba itself, there exist other means of repression, to which the same objection would not apply, and which might perhaps, in the end, be more efficacious than Royal Orders, of which the execution is entrusted to Persons who must be expected to give to them that interpretation which best suits their own interest.

(Signed)

GEO. BOSANQUET.

*The Right Hon. The Earl of Dudley,*  
                   &c.                   &c.                   &c.

Enclosure in No. 3.

*George Bosanquet, Esq. to The Chevalier de Salmon.*

*Madrid, December 31, 1827.*

WITH reference to former Communications made to the Government of His Catholick Majesty, upon the subject of illicit Slave-trading, carried on at the Island of Cuba, the Undersigned, His Britannick Majesty's Chargé d'Affaires, has the honour to transmit to His Excellency the Chevalier de Salmon, a List, lately received from the Havana, of 7 Vessels which have publicly sailed from that Port to the Coast of Africa, during the Month of September last.

The first of these, the "*Tres Manueles*," is the very same Vessel respecting which the Undersigned had the honour of addressing M. Salmon on the 5th Instant, and His Majesty's Government have observed with concern, that, although His Majesty's Commissioners had been enabled, by a combination of circumstances not likely to occur again, to furnish the Captain General of Cuba with the Depositions on oath of 4 Individuals, who had actually come from the Coast of Africa in a Spanish Slave-vessel, and had witnessed the disembarkation of a Cargo of Slaves in a Port of that Island, and had apprized His Excellency where those Individuals were to be found, no attention was paid to their representations, no examination of the Individuals was taken, and the Owners of the Vessel were allowed to send her to Sea again under the same Master, for the purpose (beyond all reasonable doubt) of again engaging in the same traffick.

If any doubts can be entertained by the Government of His Catholick Majesty, as to the justice of the complaints, respecting the conduct of the Spanish Authorities in Cuba, and the facilities afforded to the Slave-traders, these remarkable facts must surely remove them. They require no comment, and the Undersigned is merely directed to lay them before the Government of His Catholick Majesty, in confirmation of the statements already made to them.

His Majesty's Government feel convinced, that the subject will meet with that early and serious consideration which it calls for.

The Undersigned, &amp;c.

(Signed)

GEO. BOSANQUET.

*His Excellency The Chevalier de Salmon,*  
                   &c.                   &c.                   &c.

## No. 4.

*George Bosanquet, Esq. to The Earl of Dudley.—(Received January 22.)*

MY LORD,

*Madrid, January 16, 1828.*

I HAVE the honour to enclose the Copy of a Note which I have addressed to the Spanish Minister, in consequence of information received from His Majesty's Consul at Cadiz, that a Vessel is now fitting out in that Port, which he suspects is destined to be employed in the Slave-trade.

I have, &c.

(Signed) GEO. BOSANQUET.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

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Enclosure in No. 4.

*George Bosanquet, Esq. to The Chevalier de Salmon.*

*Madrid, January 15, 1828.*

THE Undersigned, His Britannick Majesty's Chargé d'Affaires, has the honour to inform His Excellency the Chevalier de Salmon, that he has received information, which induces him to suspect that a Vessel, named the "*Fama of Honduras*," is now fitting out at Cadiz, for a Voyage to the Coast of Africa for Slaves. He requests, therefore, that Instructions may be sent to the Spanish Authorities at Cadiz, to watch the proceedings of the Owners of this Vessel, in order that their unlawful designs (if they really exist) may be frustrated.

He avails himself, &c.

(Signed) GEO. BOSANQUET.

*His Excellency The Chevalier de Salmon,*  
 &c.                      &c.                      &c.

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No. 5.

*The Earl of Dudley to The Conde de Ofalia.*

*Foreign Office, February 21, 1828.*

THE Undersigned, &c. has had the honour to receive the Note which was addressed to the Undersigned, on the 19th of January 1828, by the Conde de Ofalia, His Catholick Majesty's Minister Extraordinary, expressive of the desire of the Government of His Catholick Majesty, for some further explanations of the intentions of His Majesty's Government, with regard to the proposed Establishment on the Island of *Fernando Po*.

His Majesty's Government feel, that they cannot act more candidly towards the Government of His Catholick Majesty, than by transmitting, *in extenso*, to the Conde de Ofalia, for communication to his Government, the Correspondence which has passed upon this subject between the several Departments of His Majesty's Government.

The principles by which His Majesty has been guided in this arrangement, are contained in the Instructions which have been given to Captain Owen, the Officer who was charged with the execution of the plan for the removal of the

Mixed Commission; and the Undersigned again takes the opportunity of repeating, that this arrangement has solely been undertaken with a view to the mutual accommodation of the several Contracting Parties to the Treaties, under which the Commissions were formed, and who had complained of the unhealthiness of the present Seat of the Commission.

The Undersigned avails himself, &c.

*The Conde de Ofalia,*  
 &c. &c. &c.

(Signed)

DUDLEY.

First Enclosure in No. 5.

*R. W. Hay, Esq. to Joseph Planta, Jun. Esq.—January 22, 1827.*

(See Enclosure in No. 5, Class A. 1827.)

Second Enclosure in No. 5.

*R. W. Hay, Esq. to John Backhouse, Esq.*

SIR,

*Downing-Street, June 22, 1827.*

WITH reference to the Letter which I addressed to Mr. Planta, on the 22d of January last, upon the subject of the Establishment, which it was propose to form at *Fernando Po*, for the reception of the Courts of Mixed Commission, which are now residing at Sierra Leone, under the provisions of the Treaties with Portugal, Spain, and the Netherlands; I am now directed by Viscount Goderich to acquaint you, for the information of Viscount Dudley, that Captain Owen, of His Majesty's Ship "Eden," having been selected to proceed to *Fernando Po*, for the purpose of superintending the formation of a suitable Establishment for the reception of the Courts, is about to take his departure from this Country; and I am to request that you will move his Lordship to cause a Communication to be made to the Ministers of the Powers in question who reside at this Court, with the view of suggesting to them the expediency of inviting the Commissioners of their respective Governments, who will have to remove themselves to *Fernando Po*, to hold themselves in readiness to proceed to that Island, so soon as it shall be notified to them that Captain Owen has completed his arrangements for their reception.

I am, &c.

*John Backhouse, Esq.*  
 &c. &c. &c.

(Signed)

R. W. HAY.

Third Enclosure (A.) in No. 5.

*R. W. Hay, Esq. to Lord Howard de Walden.*

MY LORD,

*Downing-Street, January 31, 1828.*

HAVING laid before Mr. Secretary Huskisson your Letter of the 22d Instant, in which you enclose Copies and Translations of a Correspondence which has passed between the Foreign Office and the Conde de Ofalia, respecting the Island of *Fernando Po*, and request that the Earl of Dudley may be

furnished with Copies of the Instructions which were given to Captain Owen, upon this Officer being sent to the Island in question; I am directed by Mr. Huskisson to transmit to you accordingly, for Lord Dudley's information, a Copy of the Instructions which were given to Captain Owen, with respect to the formation of the proposed Establishment at *Fernando Po*.

I am, &c.

Lord Howard de Walden,  
&c. &c. &c.

(Signed)

R. W. HAY.

Third Enclosure (B.) in No. 5.

*Instructions to Captain Owen, respecting the proposed Establishment at Fernando Po.*

By His Royal Highness the Lord High Admiral of the United Kingdom of Great Britain and Ireland, &c.

WHEREAS by a Letter, dated the 19th of January last, the Earl Bathurst, late one of His Majesty's Principal Secretaries of State, signified to the then Lords Commissioners of the Admiralty, The King's Pleasure that a Naval Officer, of experience and discretion, should be selected to proceed in a Vessel of War to the Island of *Fernando Po*, on the Coast of Africa, in order to take measures for preparing a suitable residence in that Island for the reception of the Courts of Mixed Commission, which are now established at Sierra Leone, under the provisions of the Treaties with Portugal, Spain, and the Netherlands, and for making all other arrangements and preparations for the transfer of such Establishments as are to be removed from Sierra Leone to *Fernando Po*; and whereas I think fit that the execution of the said service should be entrusted to your care and management; I herewith transmit to you a Copy of the Letter from Earl Bathurst, abovementioned; and I hereby require and direct you to take under your charge the "Diadem," Transport (now at Chatham), which has been prepared for the purpose of accompanying you; and, so soon as the Ship you command, and the said Transport, shall be in every respect ready, you are to proceed with them to Plymouth, where the Company of the "Eden" are to be paid advance, and where you will receive on board her, or the Transport, some Artificers, who have been procured by the Navy Board for the Service at Fernando Po.

Having so done, you are again to put to Sea with the 2 Vessels, and proceed with all convenient expedition to Sierra Leone, for the purpose of conferring with the Governor of that Colony, on the subject of the arrangements to be adopted for the execution of the service entrusted to you, and of taking on board such Detachment of the Royal African Corps, and such number of Artificers and Labourers as may be appointed to proceed to Fernando Po, and receiving such assistance, in building materials and stores, as the Governor may give you, agreeably to the directions mentioned in Lord Bathurst's Letter. You are then to make the best of your way to Fernando Po, and proceeding, in the first instance, to the Bay at the Northern extremity of that Island, which is to be preferred for the contemplated Establishment, if found suited for it; but if not, and any other part of the Island prove more eligible for it, you will consider yourself at liberty to remove there, and, after deciding on the Spot to be selected, you are to proceed, without loss of time, to execute the service set forth in the said Letter, observing the directions contained therein, and reporting your proceedings and your progress in the formation of the Settlement, from time to time, as opportunities may occur, to my Secretary for my information; and when the houses shall be completed, and the new Settlement be fit for the reception of the liberated Negroes, you are to report the same to the Governor of Sierra

Leone, and also to the Commodore commanding His Majesty's Ships on the African Station.

You are not to detain the "Diadem" Transport longer than may be deemed necessary for the accommodation and the safety of the Persons sent out to form the Establishment, and when she is no longer wanted for these objects, and she has delivered all the stores she has on board for the Island, you are to order her to return, without loss of time, to England, directing her to bring home such returned stores and Invalids as may be desired by the Naval and Military Commanders on the Station.

I herewith enclose, for your information, a Copy of a Letter from Commodore Bullen, dated the 10th of November last, reporting some observations made by him at the Island of Fernando Po, and accompanied by Copies of Surveys, made under his orders, of 2 Bays in the said Island.

Whilst employed in the service herein mentioned, you are to avoid, as much as possible, interfering with the Ships or Vessels stationed on the Coast of Africa; Commodore Collier having likewise received directions to avoid interfering with the Ship you command, except in case of necessity.

And although, under the possibility of your falling in with Ships employed in the Slave-trade, I deem it expedient that you should be furnished with the enclosed Copy of the Act (5 Geo. 4. cap. 113.) for the consolidation of the Laws relating to the Abolition of the Slave-trade, and with the accompanying signed Instructions, authorizing you, in conformity with the Treaties with Spain, Portugal, and the Netherlands, to search Vessels bearing those Flags, suspected of being engaged in an illicit Traffick in Slaves, you will understand that you are not on any account to deviate from the execution of the special service at Fernando Po, hereby entrusted to your care, for the purpose of looking after Vessels employed in the Slave-trade.

Given under my hand, 27th June 1827. (Signed) WILLIAM.  
By Command of His Royal Highness. (Signed) J. W. CROKER.

*Wm. F. W. Owen, Esq. Captain of His Majesty's  
Ship "Eden," at Woolwich.*

### No. 6.

*The Earl of Dudley to George Bosanquet, Esq.*

SIR,

*Foreign Office, February 21, 1828.*

IN reference to the Despatches from Mr. Lamb, and to the other Correspondence which you will find in the Archives of the British Mission at Madrid, on the subject of the proposed removal of the Mixed Courts of Commission, now established at Sierra Leone, unto the Island of *Fernando Po*; I transmit to you herewith the Copies of Correspondence which has passed between the Spanish Ministers at this Court and myself upon this subject.

The principles and objects of the British Government, in the proposed measure, are so clearly laid down in the Correspondence, of which you will now be in possession, that I have no observation to make to you upon it, further than that it is transmitted to you, for your information and guidance, and for communication to the Government of His Catholick Majesty.

I am, &c.

*George Bosanquet, Esq.  
&c. &c. &c.*

(Signed) DUDLEY.

First Enclosure in No. 6.

*Viscount Dudley to The Conde de la Alcudia.—June 28, 1827.*

(See Class B. 1827, No 17.)

Second Enclosure in No. 6. (Translation.)

*The Conde de la Alcadia to The Earl of Dudley.*

34, Portland-Place, July 10, 1827.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Catholick Majesty, has the honour to acknowldge the receipt of the Note, dated the 28th Ultimo, which His Excellency Lord Viscount Dudley, His Britannick Majesty's Principal Secretary of State for Foreign Affairs, has addressed to him, relative to the removal of the Commissions, now established at Sierra Leone, for the repression of the illegal Traffick of Slaves, to the Island of *Fernando Po*, and in conformity with His Excellency's wishes, he has immediately transmitted it to his Court.

The Undersigned repeats, &c.

(Signed) THE CONDE DE LA ALCUDIA.

*His Excellency Lord Viscount Dudley,*  
 &c.            &c.            &c.

Third Enclosure in No. 6. (Translation.)

*The Conde de Ofalia to Viscount Dudley.*

64, Wimpole-Street, September 10, 1827.

THE Undersigned, Minister Extraordinary of His Catholick Majesty, has the honour, by the express command of his Court, dated the 29th Ultimo, to state to His Excellency Viscount Dudley, Principal Secretary of State for Foreign Affairs, that the Spanish Government has received certain information of there having sailed from the Port of Plymouth, on the 29th of July last, an Expedition, under the command of Captain Owen, with the view of making a Settlement in the Island of *Fernando Po*, and that there was no doubt of his having had the title and character of *Governor* conferred on him.

His Britannick Majesty's Government is fully aware, that the Island of *Fernando Po*, and that of *Annabon*, in the Gulf of Guinea, are Spanish property, acquired under an onerous title, and in exchange for various cessions and restitutions made to The King of Portugal, who, in the way of compensation, ceded those Islands to His Catholick Majesty, by Articles 13, 14, and 15 of the Treaty, concluded, on the 11th of March 1778, in the Pardo; and though the Spanish Government, as the Conde de Ofalia, in his Note of the 28th of July last, declared to His Excellency Viscount Dudley, be disposed to enter into negotiation with that of England, with the view of alienating and ceding to it, upon just and honourable terms, the property and Sovereignty of the above-mentioned Islands, yet, until such negotiation be terminated, and the cession realized, it cannot consent, without derogating from its own dignity, that, under the auspices of another Government, Establishments should be formed, Local Authority be exercised, and Titles of Governor, or of any other description, over that Territory, be granted, in prejudice of the rights inherent in the Crown of Spain.

The Spanish Government makes no doubt that the Establishment in question can have no other design than that of the contemplated removal to that Island, as a more salubrious region, of the Mixed Commission residing at

Sierra Leone; but, even independently of the question, whether or not it be compatible with the tenour and spirit of the Treaty, concerning that Commission, to establish it in two points of the Spanish Dominions, such as the Islands of Cuba, and Fernando Po, notwithstanding *it had been stipulated, that it should be fixed in two Places, one of which was to belong to Spain, and the other to England*; it can admit of no doubt that, previously to effecting such transfer, it was necessary to take steps of a twofold description with the Spanish Government, namely; in the first place, to consider Spain as an integral part of the Mixed Commission, in the same manner as would be done, with respect to Holland, and the other Powers concerned; and, in the second place, to consider her as Mistress of the Territory to which it was intended to make the transfer, in order to obtain the corresponding sanction, by means of a solemn and authentick act, emanating from His Catholick Majesty. It is not known that any step has yet been taken in this latter respect, and it would also appear that the Title of Governor, or any other importing jurisdiction or authority, could only originate with the Lord Paramount of the Territory.

If even it were supposed that the above Title of Governor denotes merely *a domestick authority*, and such as is confined to the exclusive concerns of the Mixed Commission, and the Persons depending on it, the common acceptation and meaning of the word *Governor* will not warrant such an interpretation. On the other hand, it ought to be borne in mind, that a Foreigner can exercise no manner of jurisdiction in another Territory, not even over his own Countrymen, without the express and formal consent and approbation of the Territorial Lord; to which must be added the circumstance that as, in case the Mixed Commission were to be established in that Island, a Spanish Commissioner must constitute a part of it, it would assuredly seem more fitting and natural, that while Fernando Po is under the Supreme Authority of Spain, he in whose Territory the Establishment is situated, should exercise every kind of jurisdiction.

As the accounts above referred to, relating to the circumstances of the expedition, its departure, and the title and character attributed to Captain Owen, have reached His Catholick Majesty, through the medium of publick Journals and private Letters, which may, in a great measure, be incorrect, the Undersigned has been ordered to address himself to Viscount Dudley, with a view of requesting of His Excellency the needful explanations on the subject, in the hope that His Excellency will be pleased to acquaint him what truth there is in the accounts respecting the just-mentioned Settlement, its nature and organization, as well as respecting the title with which Captain Owen may be invested, inasmuch as it is not consistent with the dignity of His Catholick Majesty, that, without his express permission and authority, any Foreign Subject should form establishments, or should exercise jurisdiction or authority, in a Territory belonging to His Majesty's Crown.

While the Conde de Ofalia is commanded to make this Communication to Viscount Dudley, he is at the same time instructed to refer to the contents of his Note of the 28th of July last, and to manifest, that if England, from any political or commercial object, should find it convenient to acquire the property or sovereignty of the Islands of Fernando Po and Annabon, in the Gulf of Guinea, the Spanish Government will make no difficulty in ceding them to Great Britain, on such just and reasonable conditions as may be stipulated, and for which the Undersigned is fully authorized.

The Undersigned avails himself, &c.

(Signed) THE CONDE DE OFALIA.

*His Excellency Viscount Dudley,*  
 &c.                    &c.                    &c.

Fourth Enclosure in No. 6.

(Translation.)

*The Conde de Ofalia to The Earl of Dudley.**London, December 10, 1827.*

THE Undersigned, Minister Extraordinary of His Catholick Majesty, has the honour to state to His Excellency the Earl of Dudley, &c. that, subsequently to the motives which prompted the Spanish Government to request, on the 10th of September last, from that of His Britannick Majesty, some explanations concerning the Expedition, which sailed from Plymouth, under the command of Captain Owen, with the view of effecting a Settlement on the Island of *Fernando Po*, there have been received additional accounts and data relative to that Expedition, which render the necessity of the explanations just mentioned more evident.

It is considered as certain, that, in the middle of last September, the English Ship, called the "Eden," accompanied by a Steam-vessel and a Transport, were preparing at the English Colony of Sierra Leone, to conduct to, and disembark in, *Fernando Po*, 200 troops. Should these preparations at Sierra Leone, (supposing them to be founded in fact, as it would appear they are) have for their object a wish to be in readiness for departing to that Possession of the Crown of Spain, as soon as the arrangement proposed for it shall have been completed, by virtue of which, upon just and reasonable terms, His Catholick Majesty would be disposed to cede to England the Islands of *Fernando Po* and *Annabon*, then the Spanish Government would view those preparations, only as a preliminary step, which would acquire the character of legitimacy and propriety for its execution, the moment that, in consequence of the realization of the said cession, by means of a Convention between the two Governments, England should be justified in proceeding to take possession of the new acquisition.

But, this case alone excepted, His Catholick Majesty could not consider as legitimate any other project of occupying a Point belonging to his Crown, which had been acquired by means of an onerous title, and in exchange for other cessions and restitutions, pursuant to a Treaty with the Government of His Most Faithful Majesty. The plan of transferring the Mixed Commission to *Fernando Po*, can by no means supply a motive for the military occupation of that Island; inasmuch as, up to this moment, the Spanish Government has not only not been applied to, for the indispensable permission, in a solemn and authentick form, for effectuating that transfer to a Point of its Dominions, but, that Island is even not yet known to have been desired with that view, for Spain has only, on account of the insalubrity of Sierra Leone, and of the goodness of the Climate of *Fernando Po*, received a mere invitation, such as would be addressed to the other Powers interested in the Mixed Commission, but which have no share in the dominion over the Island of *Fernando Po*.

It was, on the other hand, indispensably necessary to have previously agreed, by concert, on the explicit abrogation of Article 12 of the Treaty concluded the 23d September 1817, by which it was stipulated, *that the Mixed Commissions should reside at two points, one of which should absolutely be in the English, and the other in the Spanish Dominions*; and though it be very certain, that, by the mutual consent of the High Contracting Parties, the Article in question might be either altered or modified, yet, until this be done with the usual forms, the Stipulation alluded to cannot but be considered as in force.

Neither does it seem probable, that the other Powers interested in the Mixed Commission will, on their part, concur in the transfer, until they shall be informed, *that Spain, as Mistress of the Island of Fernando Po, has given her consent and granted permission for the occupation of her Territory*; and, consequently, the very object of the transfer would be exposed to difficulty in the outset, and the progress of the business, instead of being expedited, would be retarded.



In this state of the question, the Undersigned has received fresh Orders from his Court, to call to Lord Dudley's recollection the contents of the Note of the Undersigned, dated the 10th of September last, and to repeat to His Excellency, that, although His Catholick Majesty cannot consent, that, without his express and formal authority, any Establishment should be formed, any Governors appointed, any Jurisdiction exercised, or any Troops despatched to occupy a Territory belonging to His Crown, He will, nevertheless, always be disposed to enter into a negotiation with the Government of His Britannick Majesty, for ceding to it the Islands of Fernando Po and Annabon, upon just and reasonable conditions.

In objecting to any occupation of the Island of Fernando Po, without its express consent, in virtue of a solemn Convention, the Spanish Government fulfils a duty imposed upon it, by its dignity, and by the necessity of preserving the Rights of the Crown of Spain; and by spontaneously offering to cede those Islands to His Britannick Majesty, on just and reasonable terms (if this should suit the political and commercial interests of England), His Catholick Majesty considers that he affords a new proof of his desire, to gratify His Britannick Majesty, and to draw closer the bonds of amity which happily unite them.

The Conde de Ofalia hopes that Lord Dudley, so understanding it, will be pleased to give him, in answer, the explanations requested in the Note of the 10th September last, to which he has not yet received any Reply.

The Undersigned avails himself &c.

(Signed) THE CONDE DE OFALIA.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

## No. 7.

*The Earl of Dudley to George Bosanquet, Esq.*

SIR,

*Foreign Office, February 29, 1828.*

NOTWITHSTANDING the fruitlessness of the repeated Representations, addressed by His Majesty's Government to the Government of His Catholick Majesty, upon the subject of the flagrant violation, in the Island of Cuba, of the Treaty for the Abolition of African Slave-trade; and notwithstanding the failure of late to obtain any more satisfactory Answer to such Representations, than a simple acknowledgment of their receipt; it is my duty, in obedience to His Majesty's Command, to persevere in the endeavour to awaken the attention of His Catholick Majesty's Ministers to a sense of what is due to the solemn stipulations of Treaty, and to the rights of humanity.

You will accordingly transmit, for the consideration of the Spanish Government, the accompanying Copy of a Despatch from His Majesty's Commissioners at the Havana,\* shewing the unchecked progress of illicit Slave-trade in the Island of Cuba.

You will urge them to take, at length, some efficient step to redeem the solemn pledge of The King of Spain, given in the Treaty of 1817.

You will remind them of the several Communications which have passed from time to time, on this subject, between His Majesty's Representatives at Madrid, and His Catholick Majesty's Ministers, and, amongst others, of the hopes held out to Mr. Lamb, that the Spanish Government would transmit to the Colonies of Spain, such Orders as should ensure the strict execution of the Treaty, in spirit, as well as in letter, by the rigorous punishment of those who should be detected in the violation of it.

\* See Class A. No. 70.

And, especially, you will urge the fulfilment of the expectation which His Majesty's Government have been authorized to entertain, that The King of Spain would conclude with His Majesty, for the more efficient execution of the Treaty of 1817, Additional Articles, similar to those which have been concluded with The King of the Netherlands, for the more efficient execution of the Slave-trade Abolition Treaty with that Country.

I am, &c.

George Bosanquet, Esq.  
&c. &c. &c.

(Signed)

DUDLEY.

No. 8.

*The Earl of Dudley to George Bosanquet, Esq.*

SIR,

*Foreign Office, February 29, 1828.*

WITH reference to my other Despatch, of this date, upon the subject of illicit Slave-trade in the Island of Cuba, I transmit to you, for your information, and for communication to the Spanish Government, the accompanying Copy of a Despatch, and of its Enclosures, which I have received from His Majesty's Commissioners at the Havana,\* giving an account of an illicit Slave-trade transaction, in the Case of the Spanish Brig "*Guerrero*," which was wrecked off Cuba, and of which the greater part of the Cargo, consisting of human beings, was afterwards landed in the Island of Cuba, in violation of the Treaty of 1817, between this Country and Spain.

I am, &c.

George Bosanquet, Esq.  
&c. &c. &c.

(Signed)

DUDLEY.

\* See Class A. No. 71.

No. 9.

*The Earl of Aberdeen to George Bosanquet, Esq.*

SIR,

*Foreign Office, March 30, 1828.*

I HAVE the honour to acquaint you, that The King has been pleased to accept of the Earl of Dudley's resignation of the Office of His Majesty's Principal Secretary of State for Foreign Affairs, and to confide to me the Seals of that Department.

I am accordingly to desire, that you will in future address to me your Despatches and Letters on Publick Business, to be laid before The King.

And you will receive from me such Orders and Instructions as His Majesty shall think proper to give for your guidance and direction.

I am, &c.

George Bosanquet, Esq.  
&c. &c. &c.

(Signed)

ABERDEEN.

## No. 10.

*George Bosanquet, Esq. to The Earl of Dudley.—(Received April 3.)*

(Extract.)

*Madrid, March 17, 1828.*

THE first time that I saw the Spanish Minister for Foreign Affairs, after the receipt of your Despatch of the 21st Ultimo, I mentioned to His Excellency the affair of the removal of the Mixed Commission from Sierra Leone to *Fernando Po*, informing him, at the same time, that I had received the Correspondence which had passed upon the Subject between your Lordship and the Count Ofalia; and I endeavoured to prove to His Excellency, by a reference to the former Communications upon this Question, between Sir Frederick Lamb and the Duke of Infantado, that the Spanish Government had, in fact, given their consent to the proposed Establishment. M. Salmon did not appear at all disposed to admit this, but as he informed me that Count Ofalia had lately received fresh Instructions upon the subject, I considered that it would be superfluous for me to discuss the matter any further with him.

From the little which passed, I collect, however, that the Government of His Catholic Majesty will not easily be persuaded to agree to the establishment of the Commission at Fernando Po, on any other condition than, either its purchase by His Majesty's Government, or the acknowledgment of the Right of Spain to the Sovereignty of it, that is to say, as I understand M. Salmon, its being under the superintendence of a Spanish Governor. His Excellency asserted, that Spain had formally taken possession of the Island, and that the 12th Article of the Treaty of 1817, must be altered, if the proposed plan be carried into execution; or, he observed, if the removal of the Commission from Sierra Leone were considered essential, this difficulty might also be got over, by changing the place of residence of the one established in the West Indies, from a Spanish Colony to an English one. Upon this latter suggestion I made no remark.

(Signed)

GEORGE BOSANQUET.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

## No. 11.

*George Bosanquet, Esq. to The Earl of Dudley.—(Received April 28.)*

MY LORD,

*Madrid, April 10, 1828.*

I HAVE the honour to enclose a Copy of a Correspondence which has passed, between His Majesty's Legation at this Court and the Spanish Government, upon the subject of a Slave-vessel supposed to be fitting out at Cadiz. Owing to an unfortunate, but trifling, mistake, respecting the name of the Vessel, which was called the "*Fama of Cadiz*," instead of the "*Fama of Honduras*," and of which I did not receive intimation in time, it has been impossible to take any notice of the negligence shewn by the Spanish Authorities at Cadiz on this occasion. It will no doubt, however, appear somewhat singular to your Lordship, that, in their Report, they should have mentioned the names of 2 other Vessels preparing for Sea, besides the "*Fama of Honduras*," and should have carefully omitted all mention of the "*Fama of Cadiz*," a Vessel fitting out, at the same time, and which fact could not be unknown to them.

The Vessel in question sailed from Cadiz on the 2d of March, as appears

by the enclosed Extracts from the "Diario de la Vigia," her name having first been changed to the "*Nueva Diana*." I am assured there is very little doubt of her being destined for the Coast of Africa.

I have, &c.

(Signed)

GEORGE BOSANQUET.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

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First Enclosure in No. 11.

*George Bosanquet, Esq. to The Chevalier de Salmon.*

*Madrid, January 15, 1828.*

THE Undersigned, His Britannick Majesty's Chargé d'Affaires, has the honour to acquaint His Excellency the Chevalier de Salmon, that he has received information which induces him to suspect that a Vessel, named the "*Fama of Honduras*," is now fitting out at Cadiz, for a Voyage to the Coast of Africa for Slaves. He requests, therefore, that Instructions may be sent to the Spanish Authorities at Cadiz, to watch the proceedings of the Owners of this Vessel, in order that their unlawful designs, if they really exist, may be frustrated.

He avails himself, &c.

(Signed)

GEORGE BOSANQUET.

*His Excellency The Chevalier de Salmon,*  
&c. &c. &c.

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Second Enclosure in No. 11.

(Translation.)

*The Chevalier de Salmon to George Bosanquet, Esq.*

SIR,

*Palace, January 20, 1828.*

HAVING laid the Note which you did me the honour to write to me on the 15th Current, before The King, my august Master; His Majesty has been pleased to command me to communicate its contents to the Secretary of the Department of Marine, in order that he may prevent the sailing of the "*Fama of Honduras*" from Cadiz, should the suspicions you entertain be found correct, inasmuch as the Slave-trade is prohibited by virtue of the Treaty concluded with His Britannick Majesty, for the abolition of such a detestable traffick.

This I have done under this date, and I inform you thereof; availing myself, &c.

(Signed)

M. G. SALMON.

*The English Chargé d'Affaires.*

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Third Enclosure in No. 11.

(Translation.)

*The Chevalier de Salmon to George Bosanquet, Esq.*

SIR,

*Palace, March 2, 1828.*

ON the 20th of last January, I informed you that, by order of His Majesty, I had directed the Secretary of the Department of Marine to prevent the departure from Cadiz, of the Ship "*Fama of Honduras*," which, according to intelligence that had been conveyed to you, was fitting out to sail for the Coast of Africa, there to employ itself in the Slave-trade.

The said Secretary of Marine gave the necessary Orders in consequence, and he now transmits to me the result of the investigation, instituted by the Authorities controuling the Marine at Cadiz.

From them it appears that, in the Bay of that Harbour, there is but one Schooner, called the "*Fama of Honduras*," which is at present the Packet, No. 2, which came from the Havana, whither it was again to sail, on the same errand, on the 15th February last; that there are fitting out for sailing: the Brig "*Gavilan*," destined to the Havana, and the Port of Puerto Rico; the Frigate "*Socorro*," for Manilla; and the "*Diana*," to cruize as a Privateer against the Insurgents: so that there are no grounds on which to found the suspicions which you, Sir, have conceived; inasmuch as all the said Ships obviously belong to Persons of known credit, who not only give security for the Voyage, and the proper use of the Royal Patents, but also become responsible, as is ordained, not to employ them in the Slave-trade.

This I lay before you, in reply to your Note of the 15th of January, and avail myself of this occasion, &c.

(Signed) M. G. SALMON.

*The English Chargé d'Affaires.*

Fourth Enclosure in No. 11.

(Translation.)

*Extracts from the "Diario de la Vigia."*

*Shipping List, Cadiz, March 2, 1828.*

SAILED.—The Spanish Schooner "*Fama of Cadiz*," Captain Don Miguel Igartua, on a Cruize.

*Shipping List, March 4, 1828.*

NOTICE.—The Spanish Schooner which was announced to have sailed on a Cruize on the 2d of this Month, is called the "*Nueva Diana*," and not the "*Fama of Cadiz*," as therein stated, which she was formerly called.

No. 12.

*George Bosanquet, Esq. to The Earl of Dudley.—(Received May 4.)*

MY LORD,

*Madrid, April 19, 1828.*

I AVAILED myself of the earliest opportunity, after the receipt of your Lordship's Despatches of the 29th February last, to speak to the Spanish Minister of State, upon the subject of the illicit Slave-trade, carried on in the Colonies of Spain, and the protection afforded by the Authorities at the Havana, to the Persons engaged in it; enquiring of His Excellency, whether any Measures of repression had yet been thought of, in consequence of the repeated Representations addressed upon this subject to the Government of His Catholick Majesty, and remarking particularly, that expectations had been held out to His Majesty's late Minister at this Court, that His Catholick Majesty would consent to the signature of Additional Articles, similar to those concluded with The King of the Netherlands, and that he had actually applied for, and received a Full Power to that effect. The Answers I received from M. Salmon upon this occasion, were not more satisfactory than usual, and did not appear to indicate that any very cordial disposition exists, on the part of the Spanish Government, to meet the wishes of His Majesty's Government upon this question. They appear to me, in fact, to have become quite indifferent about the matter, and, unless roused by a sense of the danger arising to their

Colonies, from the encreasing numbers of emancipated Negroes, I have very little hope of their adopting any decisive Measure to check the trade, and ensure a fair execution of the Treaty. M. Salmon having requested that I would transmit him, in writing, the details received from the Commissioners at the Havana, I addressed him the enclosed Note.

I have the honour to be, &c.

(Signed) GEO. BOSANQUET.

*The Right Hon. The Earl of Dudley,*  
 &c.      &c.      &c.

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Enclosure in No. 12.

*George Bosanquet, Esq. to The Chevalier de Salmon.*

*Madrid, April 9, 1828.*

THE Undersigned, His Britannick Majesty's Chargé d'Affaires, has the honour to transmit to His Excellency The Chevalier de Salmon, His Catholick Majesty's Principal Secretary of State, by command of his Government, Copies of 2 Despatches, with their several Enclosures, lately received from His Majesty's Commissioners residing at the Havana, under the Treaty for the suppression of the Slave-trade\*: the 1st, a General Report upon that traffick, as carried on at Cuba, during the Year 1827; the 2d, containing an account of a Slave-trade transaction which occurred in the Case of the Spanish Brig "*Guerrero*," which was wrecked off that Island, and the greater part of the Cargo of which, consisting of human beings, was afterwards landed there, in violation of the Treaty of 1817, between England and Spain.

Both these Reports contain abundant and incontestible evidence of the immense extent to which the Slave-trade continues to be carried on in Cuba; and both shew that, notwithstanding the repeated complaints made by His Majesty's Government to the Government of His Catholick Majesty, of the total inefficacy of the Royal Order of January, 1826, and the frequent denunciations made by His Majesty's Commissioners to the Publick Authorities at the Havana, either no new measures have been as yet adopted by the Government of His Catholick Majesty, for putting a stop to this evil, or, if any such have been communicated to those Authorities, that they have been treated by them with the same disregard as all the former Orders of His Catholick Majesty upon this subject.

The Commissioners state, that the notoriety with which this abominable traffick is now carried on, is, if possible, greater than ever,—that no concealment whatever is found necessary,—and that publick Brokers are as openly employed in obtaining purchasers for newly imported Negroes, and Persons to take shares in Slave-trade adventures, as in any business whatever. Such, in short, is this notoriety, that it is morally impossible that the Publick Authorities of the Island can be ignorant of what is passing every day under their eyes;—and as, notwithstanding, no disposition has been manifested on their part to check the evil, and as their conduct, in all cases which have been denounced to them, has been, on the contrary, such as to shew that they wish rather to make it appear to the publick, that when they do interfere, it is solely at the instigation of the Commissioners, and not of their own accord,—the natural result of this has been, to produce an universal impression amongst the people of the Island, that their proceedings are approved by the Government at home.

Be this as it may,—and notwithstanding the fruitlessness of the repeated Representations addressed by His Majesty's Government to the Government of His Catholick Majesty, upon the subject of this flagrant violation, in the Island of Cuba, of the Treaty for the Abolition of the African Slave-trade, and the failure of late to obtain any more satisfactory Answer to such Representations, than the simple acknowledgment of their receipt,—it is the duty of

\* See Class A. Nos. 70 and 71.

His Majesty's Government, in obedience to the Commands of their Sovereign, to persevere in the endeavour to awaken the attention of that of Spain, to a sense of what is due to the solemn Stipulations of Treaty and the rights of humanity.

The Undersigned is instructed, therefore, in transmitting the enclosed Reports to His Excellency the Chevalier de Salmon, to urge, in the strongest manner, the necessity of taking some immediate and efficient steps, to redeem the solemn pledge of The King of Spain, given in the Treaty of 1817,—to remind the Government of His Catholick Majesty of the several Communications, which have passed from time to time upon this subject, between His Majesty's Representatives at Madrid and His Catholick Majesty's Ministers;—and, amongst others, of the hopes held out to Mr. Lamb, that the Spanish Government would transmit to the Colonies of Spain, such Orders as should insure the strict execution of the Treaty, in spirit as well as in letter, by the rigorous punishment of those who should be detected in the violation of it; and, especially, to urge the fulfilment of the expectation which His Majesty's Government have been authorized to entertain, that The King of Spain would conclude with His Majesty, for the more efficient execution of the Treaty of 1817, Additional Articles, similar to those which have been concluded with The King of the Netherlands, for the more efficient execution of the Slave-trade Abolition Treaty with that Country.

The Undersigned avails himself, &c.

(Signed) GEO. BOSANQUET.

*His Excellency The Chevalier de Salmon,*  
&c. &c. &c.

### No. 13.

*The Earl of Aberdeen to George Bosanquet, Esq.*

SIR,

*Foreign Office, July 9, 1828.*

I HEREWITH transmit to you, for your information, 2 Copies of Papers, marked A. and B., relative to the Slave-trade, which have been presented to both Houses of Parliament, by His Majesty's Command, in the course of the present Session.

I am, &c.

*George Bosanquet, Esq.*  
&c. &c. &c.

(Signed) ABERDEEN.

### No. 14.

*The Earl of Aberdeen to George Bosanquet, Esq.*

SIR,

*Foreign Office, August 30, 1828.*

WITH reference to the Correspondence, in November and December last, upon the subject of the Spanish Vessel, the "*Tres Manuelas*," charged with having been concerned in illegal Slave-trade, I herewith transmit to you the Copies of two Despatches from His Majesty's Commissioners at the Havana,\* shewing that, for the third time within the short space of a twelvemonth, this Vessel, notoriously a Slaver, has been engaged in Voyages to the Coast of Africa.

You will again bring this Case to the notice of the Government of His Catholick Majesty, with the expression of the earnest hope of the British Government, that the Government of His Catholick Majesty may, at length, be induced to give such Instructions to the Local Authorities in Cuba, as may prevent them from persevering in a course of conduct, wholly inconsistent

\* See Class A. Nos. 79 and 85.

with the repeated assurances of His Catholick Majesty, of his determination to carry into real effect the Stipulations between this Country and Spain, for the suppression of African Slave-trade.

*George Bosanquet, Esq.*  
 &c. &c. &c.

I am, &c.

(Signed)

ABERDEEN.

No. 15.

*The Earl of Aberdeen to The Conde de Ofalia.*

*Foreign Office, September 13, 1828.*

THE Undersigned, &c. with reference to former Correspondence, on the subject of the proposed removal of the Slave-trade Commissions from the Settlement of Sierra Leone to the Island of *Fernando Po*, and especially with reference to the Note of his Predecessor, of the 21st of February last, in which the intentions of His Majesty's Government, in the proposed removal, were clearly explained, and Copies of the Correspondence which had passed on the subject, between the different Departments of His Majesty's Government, were transmitted to the Conde de Ofalia, for communication to the Government of His Catholick Majesty; has the honour to request that the Conde de Ofalia will acquaint him, whether His Majesty's Government are to consider the Government of His Catholick Majesty as consenting to the temporary Settlement in the Island of *Fernando Po*, for the objects already so fully explained to the Conde de Ofalia.

The Undersigned avails himself, &c.

(Signed)

ABERDEEN.

*The Conde de Ofalia,*  
 &c. &c. &c.

No. 16.

*The Conde de Ofalia to The Earl of Aberdeen.*

(Translation.)

*London, September 15, 1828.*

THE Undersigned, Minister Extraordinary of His Catholick Majesty, has received the Note which His Excellency the Earl of Aberdeen, His Britannick Majesty's Principal Secretary of State for Foreign Affairs, has done him the honour to address to him, under date of the 13th Instant, respecting the establishment of the Mixed Commission for the suppression of Slave-trade, in the Island of *Fernando Po*, and calling to his recollection the Correspondence which had passed on this subject, some Months ago, with Lord Dudley, and the Copies of the Documents which that Minister had transmitted to the Conde de Ofalia, in his Note of the 21st of February last.

The Conde de Ofalia, as he informed Lord Dudley, under date of the 19th January, was only authorized to propose to the Government of His Britannick Majesty the cession, by Spain, of the property and Sovereignty of the Islands of *Fernando Po* and *Annabon*, upon reasonable terms; but had no Instructions to treat separately for the removal of the Mixed Commission, unconnected with the proposed alienation. He, however, lost no time in transmitting to his Court the Copies of the Documents which Lord Dudley had enclosed in the Note alluded to.

Now that Lord Aberdeen has been pleased to remind him of the circumstance, he will again write to Madrid, by the first Packet, in order to obtain an Answer, which he will not fail to communicate to His Excellency so soon as it arrives.



The delay in answering the same may, perhaps, have arisen from the Government of His Catholick Majesty having imagined that His Britannick Majesty's Ministers, having possessed themselves of fresh and more recent data, relative to the Islands of Fernando Po and Annabon, might resolve to purchase and acquire them in full property and Sovereignty; in which case there would be no necessity to enter into the details of an Arrangement, which otherwise might become indispensable, for the preservation of the rights of property and possession acquired by His Majesty, and for determining the manner of exercising the local Authority in that Territory, belonging to the Crown of Spain.

The Undersigned avails himself, &c.

(Signed)

THE CONDE DE OFALIA.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

No. 17.

*George Bosanquet, Esq. to The Earl of Aberdeen.—(Received Oct, 21.)*

MY LORD,

*Madrid, October 10, 1828.*

IN compliance with the Instructions, conveyed to me in your Lordship's Despatch of the 30th of August last, on the subject of the repeated Voyages made by the "*Tres Manuelas*," from the Havana to the Coast of Africa; I addressed the Spanish Minister, the Note of which I have the honour to enclose a Copy, calling the attention of His Excellency to this very glaring infraction of the Treaty of 1817, and pointing out the expediency of taking Measures for preventing the Traders from carrying on their proceedings as they have done hitherto.

I have no expectation, however, that this Representation is likely to be more successful than former ones. The Spanish Government have had abundant Evidence laid before them, of the mode in which the Treaty is evaded, and if they sincerely wished for the suppression of the Traffick in Slaves, which is now openly carried on, they would ere this have made an attempt, at least, to ensure a more effectual execution of its provisions.

I am, &c.

(Signed)

GEO. BOSANQUET.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

Enclosure in No. 17.

*George Bosanquet, Esq. to The Chevalier de Salmon.*

*Madrid, September 24, 1828.*

IN the Note which the Undersigned, His Britannick Majesty's Chargé d'Affaires, addressed to the Chevalier de Salmon, under date the 5th of December 1827, he had the honour of calling His Excellency's attention to a very glaring violation of the Treaty for the suppression of Slave-trading, committed by a Vessel, named the "*Tres Manuelas*," in which, by an accidental circumstance, not likely to occur again, the British Commissioners at the Havana had been enabled to prove the fact beyond a doubt, and though the Evidence against the Captain was of such a nature, (being derived from the testimony of some shipwrecked Sailors, who owed their lives to his humanity) that it was impossible for the British Government to ask for the institution of any proceedings against him, the particulars of it were communicated to the Spanish Authorities at Cuba, as furnishing strong corroborat-

tive proof in support of the Evidence before adduced, respecting the mode in which the Vessels, which constantly sail from the Port of Havana, for the Coast of Africa, are employed.

In a subsequent Communication, the Undersigned acquainted His Excellency the Chevalier de Salmon, that this Vessel had made a second Voyage to the Coast of Africa, from which, as will be seen by a Despatch from the British Commissioners, herewith enclosed, she returned again in ballast on the 19th March, it being notorious that she had landed a Cargo of Slaves at the back of the Island; and by another Despatch from the same Commissioners, which is likewise enclosed, it appears further, that, on the 15th May, she again set sail, with several other Vessels, for the same destination as before.

Thus, for the third time, during the short space of one twelvemonth, has this Vessel, notoriously a Slaver, been engaged in Voyages to the Coast of Africa, and, if her guilt had not been sufficiently proved by the Evidence of the Sailors abovementioned, the very fact of her returning in ballast, would be a sufficient proof of the nature of the trade in which she is engaged; as it is impossible to suppose that a Merchant Ship should make so many Voyages to one particular Quarter, without bringing back any returns, or deriving any apparent profit from such excursions. This circumstance alone might very justly give rise to suspicion, and, when these suspicions were confirmed, by the positive knowledge of her having on one occasion landed Slaves on her return from Africa, no doubt could remain in the mind of any unprejudiced person, that the real object of all these Voyages was Slave-trading.

It is superfluous, however, for the Undersigned to make any comments upon evidence so clear and positive, of the open and notorious manner in which this traffick is permitted to be carried on by the Authorities in Cuba. If the Government at home do not approve of this conduct, and sincerely wish for the abolition of this detestable Commerce, the best and most acceptable proof they can give, of their sincerity on these points, will be, the adoption of more effectual measures against the Traders, and the transmission of such Instructions to the Local Authorities in Cuba, as may prevent them from persevering in a course of conduct, wholly inconsistent with the repeated assurances of His Catholick Majesty, of his determination to carry into real effect the Stipulations between England and Spain, for the suppression of the African Slave-trade.

The Undersigned avails, &c.

(Signed) GEO. BOSANQUET.

*His Excellency the Chevalier de Salmon,*  
                   &c.                   &c.                   &c.

## No. 18.

*The Conde de Ofalia to The Earl of Aberdeen.*

(Translation.)

*London, December 8, 1828.*

THE Undersigned, Minister Extraordinary of His Catholick Majesty, has the honour to inform His Excellency The Earl of Aberdeen, His Britannick Majesty's Principal Secretary of State for Foreign Affairs, that The King, his august Master, being desirous to give every day fresh proofs of his solicitude to draw closer the friendly relations subsisting between his Government and that of His Britannick Majesty, is disposed to concede the permission requested on the part of the latter Government, for the removal of the Mixed Commission for the suppression of Slave-trade, from the English Colony of Sierra Leone to the Island of *Fernando Po*, belonging to the Crown of Spain; and that that permission shall be carried into effect by means of the corresponding Royal *Cedula*, which will be issued with due solemnity; but the sacred obligations

which His Catholick Majesty has, of preserving intact the rights and pretensions of his Crown, render it necessary, at the same time, to demand, that the Government of His Britannick Majesty should put forth an authentick Document, formally and explicitly acknowledging the incontrovertible rights of Sovereignty, and those of property and possession, vested in Spain, upon the said Island of *Fernando Po*, and which were acquired under an onerous title by Article 13 of the Treaty of the 11th of March 1778, concluded with His Most Faithful Majesty, and by the solemn possession which the Portuguese Government gave of the Island itself, to the Spanish Commandant General, the Conde de Argelexos, on the 24th of October 1778, of which solemn Act the Conde de Ofalia transmitted a literal Copy to Lord Aberdeen's Predecessor, in his Note dated the 19th of January of the present Year.

The Government of His Catholick Majesty is of opinion, that the declaration contained in the Note of Lord Dudley, dated the 10th of January last, upon this subject, is not sufficiently explicit for the object in question; for which reason the Undersigned has been directed to request the Document above-mentioned, while, at the same time, the Spanish Government will promulgate the Royal *Cedula* relative to the grant of the permission.

The Undersigned avails himself, &c.

(Signed) THE CONDE DE OFALIA.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

# No. 19.

*The Earl of Aberdeen to George Bosanquet, Esq.*

SIR,

*Foreign Office, December 31, 1828.*

WITH reference to former Correspondence, respecting the removal of the Mixed Commission, under the Slave-trade Restriction Treaties, from the Colony of Sierra Leone to the Island of *Fernando Po*, I have to transmit to you the accompanying Copy of a Note, dated the 8th Instant, which I have received from the Conde de Ofalia, recently charged with a Special Mission from His Catholick Majesty to The King; in which it is stated, that His Catholick Majesty is disposed to concede the permission requested, for the removal of the Mixed Commission from Sierra Leone to *Fernando Po*, provided that England will formally and explicitly acknowledge the rights of Sovereignty, and those of property and possession, over the Island of *Fernando Po*, which the Conde de Ofalia states to be incontrovertibly vested in Spain.

His Majesty's Government have no hesitation in meeting the wishes of the Government of His Catholick Majesty in this respect, by engaging, in the most ample and unequivocal manner, that no danger will ever result to the rights of Spain, whatever they may be, to the Sovereignty of *Fernando Po*, from the Establishment forming in that Island, for the simple object of executing the existing Treaties for the suppression of Slave-trade.

With the view, indeed, of satisfying every possible doubt of the Government of His Catholick Majesty on this subject, a statement was long since furnished to them, of the reasons which led to the proposition for the Establishment in question at *Fernando Po*:—Copies *in extenso* of the Instructions given to the British Superintendent were communicated;—and His Catholick Majesty's Government were apprized, without any reserve, of the steps which were taken, from time to time, or were in contemplation, towards the formation of the Establishment in question.

You will, however, recapitulate to the Spanish Government the principal facts of this proceeding; so that the whole may now be brought in one view before them, and that this already protracted discussion may be finally and satisfactorily closed.

The first idea of the plan, for removing the Mixed Commission Court from Sierra Leone, originated in the complaints which were made of the unhealthi-

ness of that Settlement, and in the urgent Representations which were forwarded on this subject by the Courts of Madrid and Lisbon.

Had an eligible Spot presented itself in any of the British Possessions on the Western Coast of Africa, it would have been fixed upon for the proposed transfer; but no such Situation has been yet discovered; and the attention of the British Government was directed to Fernando Po, not only by the reported salubrity of the Island, as compared with other Places in the same Latitude, but from the circumstance of its having been abandoned by Spain, after an attempt at a Settlement upon the Island, upwards of 40 Years ago.

There were, moreover, other important considerations which pointed out this Island as peculiarly calculated for the object in view; among the chief of which were, its position near the Mouths of those Rivers flowing into the Bights of Benin and Biafra, where the Slave-trade is still supposed to be carried on with the greatest activity, and a humane desire to shorten the sufferings to which the unfortunate victims of this inhuman traffick are exposed on Ship-board, by establishing the Court for their adjudication as near as possible to the place of their Capture.

These combined reasons induced His Majesty's Secretary of State for the Colonial Department to suggest the expediency of obtaining the concurrence of Spain, in the project of removing the Mixed Commission Court to Fernando Po, and the steps which have been taken for its establishment there, were only such as were absolutely required to carry into effect, in that Island, the common object of the Treaties for the suppression of the Slave-trade.

The Superintendent who has been sent out, to prepare the way for the Members of the Court of Mixed Commission, is directed to limit his operations to that object alone; and to provide for the future disposal of such of the captured Africans as may be liberated by the adjudication of the Court. He is furnished with no powers of command, beyond what are absolutely necessary for the maintenance of good order within the precincts of the Establishment which he is to form, and to preserve those who are employed under him from the attacks of the Natives; and he is invested with no authority, nor is it intended to supply him with any, which can in any way interfere with the rights of the Sovereign of the Island, whoever he may be.

To this plain statement nothing can be well added, further than the declaration of His Majesty's Government, which you are accordingly authorized to make, that Great Britain has no private object in view, in the proposed measure, nor any end to answer by it, in which Spain, as a Party to the Treaties for the Abolition of the Slave-trade, ought not to participate.

You will conclude your Communication to the Spanish Government, by expressing a hope, on the part of His Majesty, that the acquiescence of Spain in this Arrangement may now be formally and explicitly expressed to Great Britain, in order that definitive steps may be taken for the removal of the Commission.

I am, &c.

*George Bosanquet, Esq.*  
&c. &c. &c.

(Signed) ABERDEEN.

## No. 20.

*The Earl of Aberdeen to George Bosanquet, Esq.*

SIR,

*Foreign Office, December 31, 1828.*

NOTWITHSTANDING the failure of so many Representations, addressed by His Majesty's Government to that of His Catholick Majesty, on the total inefficacy of the Orders which have hitherto been issued to the Colonial Authorities of Spain, for carrying into effect the Stipulations of the Treaty of 1817, for the abolition of Spanish Slave-trade; the Case which it is now my duty to state to you, to be laid before the Government of His Catholick Majesty, is one which I trust will at length convince that Government, of the indispensable necessity of taking further and efficient measures, for the vindication of its good faith, and for the effective fulfilment of the obligations contracted by His Catholick Majesty under the abovementioned Treaty.

You will have seen from former Correspondence, how urgently His Majesty's Government have pressed upon the attention of the Government of His Catholick Majesty the fact, that the Laws of Spain, in regard to Slave-trade, and in particular the Royal Cedula of December 1817, by which a Ship, in which Negroes were transported, incurred the penalty of confiscation, and the Crew that of transportation to the Phillipines, remained without effect, in consequence of the impediments which official forms and other circumstances threw in the way of its fair execution.

The effect of these Representations, as you are already aware, was the issue of the Royal Order of Madrid of the 2d of January 1826, by which the Captain General of Cuba, was authorized and commanded to cause the examination of every Case of a Vessel arriving in that Island, suspected to have landed Negroes clandestinely in the Colony; in order to the punishment of every such offence by the Laws in force.

The Order further directed, that to the Governor alone, with the advice of his Assessor, should belong the cognizance of all such Cases.

The authority with which the Governor General of Cuba was thereby invested, would, as the British Government were told, remove all occasion for further remonstrance on their part, by producing a rigorous application of the Laws of Spain to the punishment of Spanish Slave-trade.

Unhappily the event has been directly the contrary. The instances have been numerous, and are even increasing in frequency, in which His Majesty's Commissioners are compelled to complain to the Colonial Authorities of Spain, of infractions of the Treaty, committed with impunity, in that Colony. In the Month of July last, credible information was conveyed by His Majesty's Commissioners at the Havana, to the Captain General, that the Spanish Vessel "*Esperanza*," which had just arrived in that Port, had landed about 270 Slaves on the Coast of the Island.

Upon this information the Vessel was formally put under seizure by the Court of Admiralty; and a species of investigation ensued, which ended in a Report from the Fiscal, in which he alleged, as a sufficient ground for the release of the Vessel, the fact that no Slaves had been actually *found* on board.

It is hardly necessary to observe, that this fact was expressly admitted, by the very terms of the information furnished by His Majesty's Commissioners, which imported, that the Vessel had clandestinely landed her Cargo of Slaves before she entered the Port of the Havana. This, however, is not the point to which I have now particularly to direct your attention.

In the course of the argument contained in his Report, the Fiscal states, that, even if Slaves had actually been found on board the "*Esperanza*," the Case would not have been matter for his cognizance; that the Vessel must, in that case, have been delivered over to the Mixed Commission; whereby the Fiscal in effect declares, that no case of the kind, however flagrant, or with whatever circumstances accompanied, could be an object of prosecution under the Colonial Laws of Spain;—that those Laws were to be considered by him, in any Case brought before him, to be in fact utterly powerless for the punishment of illegal Slave-trade.

This declaration was alone wanting to complete the proof of the nullity of the Orders issued by The King of Spain to His Colonial Authorities; by whom His Catholick Majesty's repeated assurances of his determination to put down the Slave-trade are set at nought; and whose conduct tends to the direct violation of the solemn Compact entered into by His Catholick Majesty with The King, for the extinction of that inhuman traffick throughout His Catholick Majesty's Dominions.

You will communicate the facts of this Case to the Spanish Minister, accompanied with an urgent appeal, on the part of His Majesty, to The King of Spain, to the end that efficient measures may at length be adopted for putting an end to a system on the part of the Colonial Authorities of Spain, equally inconsistent with the obligations of Treaty, and with the beneficent intentions of His Catholick Majesty.

I am, &c.

George Bosanquet, Esq.

(Signed)

ABERDEEN.

&c. &c. &c.

## BRAZIL.

**No. 21.**

*The Viscount d'Itabayana to The Earl of Dudley.*

MYLORD,

*Park Crescent, ce 26 Février 1878.*

**J'AI l'honneur de m'adresser aujourd'hui à votre Excellence, pour la prier de vouloir bien me faire connoître les noms des personnes que le Roi, en conformité de l'Article 4<sup>me</sup> de la Convention, signée à Rio de Janeiro, le 23 Novembre 1826, pour l'abolition finale de la Traite des Nègres, a daigné nommer pour siéger, de sa part, à la Commission Mixte de Sierra Leone.**

**Veillez agréer, Mylord, les assurances, &c.**

*Son Excellence Le très Hon. Lord Dudley,* (Signé) **ITABAYANA.**  
*&c. &c. &c.*

**(Translation.)**

MY LORD,

*Park Crescent, February 26, 1828.*

**I HAVE** the honour to address myself to your Excellency, to request you to inform me of the names of the Persons whom The King, in conformity with the 4th Article of the Convention, signed at Rio de Janeiro, on the 23d of November 1826, for the final abolition of the Slave-trade, has been pleased to appoint to act on his behalf in the Mixed Commission at Sierra Leone.

**I pray your Lordship to accept the assurances, &c.**

(Signed) **LE VICOMTE D'ITABAYANA.**

*His Excellency The Earl of Dudley,*  
*&c.                      &c.                      &c.*

No. 22.

*The Right Hon. R. Gordon to The Earl of Dudley.—(Received March 4, 1828.)*

MY LORD,

*Rio de Janeiro, December 24, 1827.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, marked Slave-trade, of the 31st August last, forwarding Copies of Despatches from His Majesty's Commissioners at Sierra Leone, relating to the attempts which have been made, under the form of *Passports* granted in Brazil, to import Slaves from the Coast of Africa, Northward of the Equator.

In compliance with your Lordship's Instructions, I have addressed a Note to the Marquis of Araçaty, of which a Copy is enclosed, proposing to His Excellency, that, with a view to prevent similar abuses, an Article should be concluded between Great Britain and Brazil, to the effect of that concluded with The Netherlands in 1823, and with Sweden of the 6th November, in the following Year.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.* (Signed) **R. GORDON.**

Enclosure in No. 22.

*The Right Hon. R. Gordon to The Marquis of Aracaty.**Rio de Janeiro, December 17, 1827.*

THE Undersigned, &c. has received Orders from his Government to call the attention of the Government of Brazil to the repeated attempts which are made, under cover of *Passports* granted by authority in this Country, to import Slaves from those parts of the Coast of Africa on which the Slave-trade has by Treaty been renounced by the Brazilian Government, and been interdicted to its Subjects. The proper Licences granted in these cases require that the Slaves should be taken from within the Limits permitted by the Treaty, prohibiting the sailing of the Vessels to any Port without those Limits. Nevertheless, the permission which has been granted in several Cases for Vessels to touch at St. Thomas and Princes Islands, and other Ports to the North of the Line, has been favourable to enterprizes which are undertaken in express contradiction to the spirit of the existing Compacts between the two Governments.

Under these circumstances the Undersigned has the honour to represent to His Excellency, the Marquis of Aracaty, that the British Government is desirous of coming to an Agreement with the Government of Brazil, which shall more explicitly and publickly define what is held to constitute an illegal prosecution of the Slave-trade, subject to penalty under Treaty.

In the Additional Article to the Treaty betwixt Great Britain and The Netherlands, of the 25th of January 1823, and in the Treaty with Sweden, of the 6th of November 1824, the principle has been adopted, of establishing the illicit employment of Ships, by their "*fitting up*," and by other general circumstances therein specified, in lieu of the Clause requiring proof of the "*Slaves having been actually embarked*;" and such are the artifices of evasion resorted to in the Brazilian Slave-trade, that the British Government considers it to be essential, to the maintenance of the spirit and object of the Treaty with this Country, that an Article to the effect of that contained in the Treaties with The Netherlands and Sweden, should be concluded between Great Britain and Brazil. At the same time that the Undersigned proposes to His Excellency, the Marquis of Aracaty, to obtain His Imperial Majesty's consent to the above Article, it is his duty to acquaint His Excellency, that Instructions have already been given by His Britannick Majesty's Government, to His Majesty's Commissioners at Sierra Leone, desiring them to act upon the principle of it; the justice of which is, in fact, considered to be admitted, by the Answers given by the Brazilian Government to former Representations that have been made by Great Britain.

His Excellency the Marquis of Aracaty, will be enabled to judge of the rule by which His Majesty's Commissioners at Sierra Leone will continue to be guided, upon perusal of the enclosed Copy of an Instruction which was sent to them on the 31st of August, in the present Year.

Lastly, the Undersigned has been commanded to express the confidence of The King, his Master, that His Imperial Majesty will readily accede to the Agreement now proposed, for carrying into full and perfect effect the principles which have been recognized and declared by His Majesty, and by His Imperial Majesty, in the late Treaty concluded between them for the abolition of the illegal Slave-trade.

The Undersigned, &amp;c.

(Signed)

R. GORDON.

*His Excellency The Marquis of Aracaty,*

&amp;c.

&amp;c.

&amp;c.

## No. 23.

*The Viscount d'Itabayana to The Earl of Dudley.*

MYLORD,

Park Crescent, ce 3 Mars 1828.

LE Capitaine James Murray, Commandant de la Frégate de Sa Majesté Britannique "Athol" en croisière sur la Côte Méridionale d'Afrique, a capturé, le 11 Février 1826, le Brick Brésilien, "*l'Activo*," chargé d'Esclaves, et commandé par le Sieur Jozé Pinto de Araujo. Cette saisie ayant été faite au Sud de l'Equateur, en contravention à l'Article 4me des Instructions annexées à la Convention signée à Londres, entre le Brésil, le Portugal, et la Grande Bretagne, le 28 Juillet 1817, la Commission Mixte de Sierra Leone a ordonné la restitution de la Prise, et conformément à l'Article 8me de son Règlement, a condamné le Capteur au paiement de la somme de £10,893. 17s. 8d. pour frais de justice, dommages, intérêts et prix des Esclaves affranchis, comme il est constaté par la Copie ci-jointe du Jugement rendu sur cette affaire, le 9 Mai 1826.

Et puisque le paiement de cette somme doit être fait à Londres par le Gouvernement de Sa Majesté Britannique, conformément à l'Article 10me de la susdite Convention, ainsi que du 8me du Règlement additionnel, j'ai l'honneur de m'adresser aujourd'hui à votre Excellence pour la prier de vouloir bien donner les ordres nécessaires, pour que ce paiement soit effectué aux termes de l'Article 8me du Règlement susmentionné, qui alloue aux Réclamans l'intérêt de 5 pour Cent. sur le montant des respectives indemnités.

En faisant droit à cette juste demande, vous ajouterez, Mylord, de nouveaux titres à la haute considération avec laquelle j'ai l'honneur d'être, &c.

(Signé) LE VICOMTE D'ITABAYANA.

Son Excellence le Très Hon. Lord Dudley,

&amp;c. &amp;c. &amp;c.

(Translation.)

MY LORD,

Park Crescent, March 3, 1828.

CAPTAIN JAMES MURRAY, commanding His Britannick Majesty's Frigate "*Athol*," when cruizing off the South Coast of Africa, captured, on the 11th February 1826, the Brazilian Brig "*Activo*," loaded with Slaves, and commanded by the Sieur Jozé Pinto de Araujo. This Capture having been made to the South of the Equator, in contravention of the 4th Article of the Instructions annexed to the Convention, signed at London, on the 28th July 1817, between Brazil, Portugal, and Great Britain, the Mixed Commission of Sierra Leone ordered the restitution of the Prize, and, in accordance with the 8th Article of its Regulations, condemned the Captor to the payment of the sum of £10,893. 17s. 8d. for legal costs, damages, interest, and value of the liberated Slaves, as appears by the annexed Copy of the Sentence passed in this affair, on the 9th May 1826.

And as the payment of this sum ought to be made in London, by the Government of His Britannick Majesty, agreeably to the 10th Article of the beforementioned Convention, as well as to the 8th Article of the Regulation annexed thereto; I have now the honour to address myself to your Excellency, and to request that you will be so good as to give the necessary directions, that this payment may be effected, according to the provisions of the 8th Article of the abovementioned Regulation, which allows 5 per Cent. interest to the Claimants, upon the amount of their respective indemnities.

In giving effect to this just demand, your Lordship will add a fresh claim to the high consideration with which I have the honour to be, &c.

(Signed) LE VICOMTE D'ITABAYANA.

His Excellency The Earl of Dudley,

&amp;c. &amp;c. &amp;c.



## Enclosure in No. 23.

*Sentence of the Mixed Commission at Sierra Leone, in the Case of the Brazilian Brig "Activo."*

I, the Undersigned, Edward Clanfield Brickwood, of Doctors' Commons, London, Notary Publick, do hereby certify, that the Writings hereunto annexed, do contain a true and faithful Transcript of an authenticated Copy, under the Seal of the British and Portuguese Court of Mixed Commission established at Sierra Leone, of the Original Decrees or Sentences made in the said Court, in the Cause therein mentioned, namely, the Brig "*Activo*," Jozé Pinto de Araujo, Master, the same having been by me carefully collated with the said authenticated Copy, and found entirely to agree therewith. In witness whereof I have hereunto set my Hand and Seal, this 15th day of December, in the Year of our Lord 1827.

(Signed) E. C. BRICKWOOD, Notary Publick

## British and Portuguese Court of Mixed Commission, Sierra Leone.

Before John Tasker Williams, Esq. and Daniel Molloy Hamilton, Esq. His Britannick Majesty's Commissary Judge, and Commissioner of Arbitration, (acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.)

PRESENT, WILLIAM SMITH, Esq. Registrar.

*Tuesday, the 9th day of May, in the Year of our Lord 1826.*

Brig "*Activo*," Joze Pinto de Araujo, Master.

Our Sovereign Lord The King, against the Brig or Vessel called the "*Activo*," whereof Joze Pinto de Araujo was Master, her Tackle, Apparel, and Furniture, and all and singular the Goods, Wares, and Merchandize, and Slaves, on board the same, and therewith seized and taken by His Majesty's Ship "*Athol*," James Arthur Murray, Esq. Commander, and brought to Sierra Leone, and against all Persons in general.

William Henry Savage, Proctor, on behalf of Claimant, prayed the Claim by him given to be admitted, and the said Brig, Cargo, and Slaves to be restored as claimed, with Costs, Damages, and Expences; John Dean Lake, Proctor, on behalf of the Captors, prayed the said Claim to be rejected, and the said Brig and Cargo to be condemned, and the Slaves to be emancipated.

The said Commissary Judge and Commissioner of Arbitration, having heard the said Claim and proofs read, admitted the said Claim, pronounced the said Brig, Cargo, and Slaves to belong, as claimed, and, conformably to the provisions of the Treaty, decreed the same to be restored to the Claimant, for the use of the Owner and Proprietor thereof, together with the Costs, Damages and Expences incurred, in consequence of the aforesaid Seizure, and referred it to the Registrar to ascertain the amount thereof, and report the same to the Commission.

## British and Portuguese Court of Mixed Commission, Sierra Leone.

Before John Tasker Williams, Esq. and Daniel Molloy Hamilton, Esq. His Britannick Majesty's Commissary Judge, and Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, WILLIAM SMITH, Esq. Registrar.

*Thursday, the 8th day of June, in the Year of our Lord 1826.*

Brig "*Activo*," Joze Pinto de Araujo, Master.

William Henry Savage, Proctor, on behalf of the said Joze Pinto de Araujo, Master, and the Owners and Proprietors of the said Brig "*Activo*,"

prayed the Court to award to the said Claimants the sums stated, in the Report of the Registrar, to be due to them, for the unlawful seizure and detention of the said Vessel, and for the total loss of 163 Slaves.

John Dean Lake, Proctor, on behalf of James Arthur Murray, Esq. the Commander, and the Officers and Crew of His Majesty's Ship "Athol," the Captors, prayed the Court to reject the Claim allowed by the Registrar, for the 163 Slaves, inasmuch as the said Slaves mutinied, and rose upon the Crew in charge of the said Brig "*Activo*," and forcibly made their way to the Shore, and were afterwards taken charge of by the Collector of Duties, by the order of the Acting Governor.

The Court thereupon directed that the proofs of the circumstance of the escape of the said 163 Slaves from the said Brig should be more particularly detailed and brought before it, together with all Correspondence and Communications that had taken place, between the Proctors in the Cause, and His Majesty's Colonial Authorities on the subject of the said Slaves; supported by Affidavits, and that the same be filed, before it proceeded to make its Award upon the Registrar's Report.

#### British and Portuguese Court of Mixed Commission, Sierra Leone.

Before John Tasker Williams, Esq. and Daniel Molloy Hamilton, Esq. His Britannick Majesty's Commissary Judge, and Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, WILLIAM SMITH, Esq. Registrar.

*Saturday, the 1st day of July, in the Year of our Lord 1826.*

Brig "*Activo*," Joze Pinto de Araujo, Master.

This day, in pursuance of the directions of the Court of the 8th day of the Month of June last past, that the proof of the escape of the 163 Slaves from the said Brig, should be more particularly detailed, and brought before it, together with all Correspondence and Communications that had taken place, between the Proctors in the Cause, and His Majesty's Colonial Authorities, on the subject of the said Slaves, supported by Affidavits; the following Documents relative to the same, were brought in, and filed in the Registry of the Court, and were this day read, to wit,

1st.—The Affidavit of John Dean Lake, the Proctor for the Captor. Sworn June 12, 1826.

2d.—The Affidavit of William Henry Savage, the Proctor for the Claimant. Sworn June 12, 1826.

3d.—Letter from John Dean Lake to William Henry Savage. Dated April 29, 1826.

4th.—Letter from William Henry Savage to John Dean Lake. Dated same Day.

5th.—Letter from John Dean Lake to William Henry Savage. Dated same Day.

6th.—Letter from William Henry Savage to John Dean Lake. Dated same Day.

7th.—Letter from K. Macaulay, Acting Governor, to William Henry Savage. Dated same Day.

8th.—Affidavit of Thomas Cole, Acting Collector. Sworn June 13, 1826.

The following Documents, relative to the same subject, were also this day read, viz:

1st.—The Letter of Mr. Thomas Cole, Acting Collector, to the Registrar of this Court. Dated May 2, 1826.

2d.—Affidavit of George Springler. Sworn May 4, 1826.

3d.—Affidavit of Robert Lee. Sworn May 4, 1826.

4th.—Petition and Affidavit of Joze Pinto de Araujo, the Master. Sworn May 9, 1826, enclosing Duplicate of Letter aforesaid, from John Dean Lake to W. H. Savage, of April 29, 1826.

The Report of the Registrar being also read, the Commissioners confirmed so much of the same as the Registrar therein stated his opinion the Claimant was entitled to, for Costs of Suit and Special Damages and Expences, occasioned to the said Brig by detention; and in pursuance thereof, the said Commissioners did award and decree, that James Arthur Murray, Esq. the Captor in this Case, do pay to the said Joze Pinto de Araujo, the Claimant, or his lawful Attorney or Attornies, for his use, absolutely and unconditionally, the sum of £256. 2s. 8d. sterling money of Great Britain, for the said Costs of Suit, and for Special Damages and Expences, occasioned to the same Brig by her detention.

And notwithstanding it appeared to the Commissioners, by the Affidavits and other Documents this day read, that the loss of the Slaves might, in some measure, have been caused by the neglect of the Captor, or his Agent, who had the charge and possession of them, and also of the Brig, in consequence of his not furnishing them with food, on the 29th day of April last, yet the Commissioners could not believe or conclude this to have been either the principal or sole cause of the said Slaves leaving the Vessel and coming on Shore. And although the Commissioners would not attempt to justify the mode in which the Claimant had been deprived of his Slaves, nor the conduct of the Captor, or his Agent, in not taking proper precaution to prevent those Slaves leaving the Vessel, nevertheless they conceived themselves bound to declare their opinion, that the absolute and unconditional confirming the whole of the Registrar's Report, would be contrary to the principles of equity, and would, in point of fact, be rewarding the Claimant, not only for a breach of the Convention between Great Britain and Portugal, for the prevention of the illicit Slave-trade, but also for a breach of the Laws of his own Country.

The Commissioners, at the same time that they considered the illegal conduct of the Captor, in making this Seizure to the South of the Equator, in direct opposition to his Instructions, could not lose sight of conduct much more illegal on the part of the Claimant, in carrying on the Slave-trade to the North of the Equator, contrary to the Licence granted him in his Passport, by the Authorities of the Brazilian Government, and in defiance of the Convention aforesaid, and of the Laws of Portugal and Brazil.

The Commissioners having further considered, that, by the Convention aforesaid, there is no Appeal from their Judgment in this Case, and having also considered it to be most desirable, that some additional measure should be adopted by the British and Brazilian Governments, for the prevention of such glaring violations of the Convention as the present, have, therefore, in the hope that this Case may particularly call forth the attention of both Governments, only conditionally confirmed the remaining part of the Registrar's Report, and therefore the said Commissioners did further award and decree, that the said James Arthur Murray, Esquire, the Captor in this Case, do pay to the said Joze Pinto de Araujo, or his lawful Attorney or Attornies, for his use, the sum of £654. sterling money of Great Britain, for the demurrage of the said Brig, provided the British and Brazilian Governments agree and declare, that the said sum ought to be so paid, according to the true intent and meaning of the said Convention, between Great Britain and Portugal, for the prevention of illicit Slave-trade, but not otherwise.

And the said Commissioners did further award and decree, that the said James Arthur Murray, Esq. do pay to the said Joze Pinto de Araujo, or his lawful Attorney or Attornies, for his use, the further sum of £9,983.15s. sterling money of Great Britain, for the total loss of 163 Slaves, provided, as before, that the British and Brazilian Governments agree and declare, that the said sum ought to be so paid, according to the true intent and meaning of the Convention aforesaid, but not otherwise.

And the said Commissioners did further award and decree, that the said James Arthur Murray, Esq. do pay to the said Joze Pinto de Araujo, or his lawful Attorney or Attornies, for his use, the further sum of £150. sterling money of Great Britain, being for interest on the estimated Capital employed in the purchase and maintenance of the Cargo, provided, as before, the British and Brazilian Governments agree and declare, that the said sum

ought to be so paid, according to the true intent and meaning of the Convention aforesaid, but not otherwise.

These are to certify, that the foregoing are just and true Copies of the original Decrees or Sentences, made in the British and Portuguese Court of Mixed Commission, established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court at Freetown, in the Colony of Sierra Leone, the 7th day of July, in the Year of our Lord, 1826.

(L. S.)

WM. SMITH, Registrar.

### No. 24.

#### *The Viscount d'Itabayana to The Earl of Dudley.*

MYLORD,

*Park Crescent, ce 3 Mars 1828.*

LE Brick Brésilien "*Perpetuo Defensor*" chargé d'Esclaves, et appartenant au Sieur Joao Alves da Silva Porto, négociant à Rio de Janeiro, a été pris par le Capitaine Charles Bullen, Commandant de la Frégate de Sa Majesté Britannique la "*Maidstone*," le 18 Avril 1826, et au Sud de l'Equateur, comme le constate la Dépêche adressée par Mr. D. M. Hamilton, Commissaire de Sa Majesté Britannique à Sierra Leone, au feu Mr. Canning le 12 Octobre 1826, et publiée dans la Collection des Pièces Officielles présentées au Parlement dans sa dernière Session.

L'injustice de cette Capture étant de la dernière évidence, Mylord, puisque l'Article 4me des Instructions annexées à la Convention, faite à Londres entre le Brésil, le Portugal, et la Grande Bretagne, le 28 Juillet 1817, défend de la manière la plus absolue la saisie des Bâtiments rencontrés au Sud de l'Equinoxiale, la Commission Mixte, siégeant à Sierra Leone, a ordonné la main-levée de la Prise, et condamné le Capteur au paiement des Sommes de £1,733. 19s. 8d. et Reis 79,716,000, pour frais de justice, dommages, intérêts, et prix des Esclaves affranchis, comme le prouve la Copie authentique (ci-jointe) du Jugement rendu sur cette affaire, le 28 Septembre 1826. Et comme le paiement de ces deux Sommes doit être fait pour le Gouvernement de Sa Majesté Britannique, en exécution de l'Article 10me de la Convention précitée, ainsi que du 8me du Règlement additionnel, j'ai l'honneur de m'adresser aujourd'hui à votre Excellence, pour la prier de vouloir bien donner des ordres nécessaires pour que ce paiement soit effectué, avec l'intérêt de 5 pour Cent. à l'An, stipulé à l'Article 8me du Règlement annexé à la susdite Convention.

La justice de cette demande m'en garantit le succès, Mylord, et dans cette attente je vous prie d'agréer les assurances, &c.

(Signé) LE VICOMTE D'ITABAYANA.

*Son Excellence le très Hon. Lord Dudley,*

&c.                      &c.                      &c.

(Translation.)

MY LORD,

*Park Crescent, March 3, 1828.*

THE Brazilian Brig, "*Perpetuo Defensor*," laden with Slaves, and belonging to Sr. Joao Alves da Silva Porto, a Merchant at Rio de Janeiro, was captured on the 18th of April 1826, to the South of the Equator, by Captain Charles Bullen, commanding His Britannick Majesty's Frigate,

the "Maidstone," as appears by a Despatch, addressed by Mr. D. M. Hamilton, His Britannick Majesty's Commissioner at Sierra Leone, to the late Mr. Canning, on the 12th of October 1826, and published in the Collection of Official Papers, presented to Parliament during the last Session.

The injustice of this Capture, being, my Lord, clearly evident, (since the 4th Article of the Instructions, annexed to the Convention, concluded at London on the 28th July 1817, between Brazil, Portugal, and Great Britain, prohibits, in the most absolute manner, the Seizure of Vessels fallen in with to the South of the Equinoctial Line) the Mixed Commission, sitting at Sierra Leone, has ordered the release of the Prize, and condemned the Captor to the payment of the Sums of £1,733. 19s. 8d. and 79,716,000 Reis, for legal Costs, Damages, Interest, and value of the liberated Slaves, as proved by the authenticated Copy (herewith enclosed) of the Sentence passed in that Case, on the 28th of September 1826. And as the payment of these two sums should be made by the Government of His Britannick Majesty, in execution of the 10th Article of the beforementioned Convention, as well as of the 8th Article of the Regulation, annexed thereto, I have now the honour to address myself to your Excellency, to request you to give the necessary directions, that this payment may be made, with the Interest of 5 per Cent per Annum, stipulated in the 8th Article of the Regulation annexed to the abovementioned Convention.

The justice of this demand leaves me no doubt of its success, and, in this persuasion, I beg your Lordship will accept, &c,

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Dudley,*  
 &c.                      &c.                      &c.

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Enclosure in No. 24.

*Sentence of the Mixed Commission at Sierra Leone, in the Case of the Brazilian Brig "Perpetuo Defensor."*

British and Portuguese Court of Mixed Commission, Sierra Leone.

Before Daniel Molloy Hamilton, Esq., His Britannick Majesty's Commissary Judge, and Joseph Reffell, Esq., His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners of His Most Faithful Majesty The King of Portugal.

PRESENT, WILLIAM SMITH, Esq., Registrar.

*Thursday, the 28th day of September, in the Year of our Lord 1826.*

Brig "Perpetuo Defensor," Antonio Mauricio de Mendonça, Master.

The Registrar's Report, amended, as ordered by the Court, on the 26th day of this instant Month of September, being brought in and read, and Proctors on both sides being heard on the same, the Commissioners confirmed, unconditionally, so much of the said Report as the Registrar therein set forth the Claimant was entitled to, for Costs of Suit, and for Special Damages and Expenses occasioned to the said Brig, by detention, amounting to £79: they also confirmed, unconditionally, so much more of the said Report as the Registrar stated the Claimant entitled to, for provisioning the Slaves, from the 29th of June to the 6th day of July last, amounting to the sum of £122. 10s.; and it having been represented and proved to the satisfaction of the Court, that the said Ship would be unable to proceed to Sea, unless the Master could raise a further sum of £150., by the Court giving a further unconditional award for that sum; the Commissioners, therefore, did also unconditionally confirm so much of the sum allowed by the Registrar in the said Report, for Demurrage, as amounts to £150. Whereupon the Commissioners did award and decree, that Charles Bullen, Esq., the Captor in this Case, do pay to the said Antonio Mauricio de Mendonça, the Claimant, or his lawful Attorney or Attornies, for his use, unconditionally, the beforementioned Sums, amounting in the whole to £351. 10s.; being for Costs of Suit, Special Damages, and

Expences, provisioning of the Slaves, and for part of the Demurrage, as aforesaid.

And the Commissioners having stated their conviction, that the Claimant in this Case had carried on an illicit Traffick in Slaves during the present Voyage, inasmuch as it had been clearly proved, that the Slaves taken on board his Vessel, were shipped from Badagry, in 6. 26. Latitude North of the Equator, and 2. 52. Longitude East of Greenwich, in direct defiance of the Convention made between Great Britain and Portugal, in the Year of our Lord 1817, for the prevention of illicit Traffick in Slaves; and the Commissioners deeming it, therefore, just and equitable that this Case should be adjudicated on the same principles as the Case of the Brig "*Activo*," whereof Jozé Pinto de Araujo was Master, which Case was lately before this Court, inasmuch as the said Charles Bullen, Esq. could not be aware of the decision in that Case, at the time he made the present Seizure. And the Commissioners being of opinion, as in that Case, that the absolute and unconditional confirming the whole of the amended Report, would be contrary to the principles of equity, and would, in point of fact, be rewarding the Claimant, not only for a breach of the Convention between Great Britain and Portugal, for the prevention of illicit Traffick in Slaves, but also for a breach of the Laws of his own Country. And the Commissioners having considered, in this Case, as in a former, that, by the Convention aforesaid, there is no Appeal from their Judgment; and also that it is most desirable that some additional measure should be adopted by the British and Brazilian Governments, for the prevention of such glaring violations of the Convention, as the present, and that of the "*Activo*;" and in the hope that this Case may, in addition to the other, particularly call forth the attention of both Governments, have therefore only conditionally confirmed the remaining part of the amended Report; and therefore the Commissioners did further award and decree, that the said Charles Bullen, Esq., the Captor, in this Case, do pay to the said Antonio Mauricio de Mendonça, or his lawful Attorney or Attornies, for his use, the sum of £1,280. for the remainder of the amount of demurrage of the said Brig; provided the British and Brazilian Governments agree and declare, that the said sum ought to be so paid, according to the true intent and meaning of the Convention aforesaid, but not otherwise.

And the said Commissioners did further award and decree, that the said Charles Bullen, Esq. do pay to the said Antonio Mauricio de Mendonça, or his lawful Attorney or Attornies, for his use, the further sum of 79,716,000 Reis, for the total loss of 364 Slaves; provided, as before, that the British and Brazilian Governments agree and declare, that the same ought to be so paid, according to the true intent and meaning of the Convention aforesaid, but not otherwise.

And the Commissioners did further award and decree, that the said Charles Bullen, Esq. do pay to the said Antonio Mauricio de Mendonça, or his lawful Attorney or Attornies, for his use, the further sum of £102. 9s. 8d., being for the Interest on the estimated Capital employed in the purchase and maintenance of the Cargo of Slaves; provided, as before, the British and Brazilian Governments agree and declare, that the said sum ought to be so paid, according to the true intent and meaning of the Convention aforesaid, and not otherwise.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence, made in the British and Portuguese Court of Mixed Commission, established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, the 3d day of October, in the Year of our Lord 1826.

(L. S.)

(Signed)

WM. SMITH, Registrar.

Be it known unto all, that I, William Henry Savage, Notary Publick by Royal Authority, duly admitted and sworn, do certify, that I have copied

the foregoing Document from the Original, left in my Office to be transmitted by me to Messrs. Garry and Curtis, of the City of London, who are nominated Attornies on behalf of the said Antonio Mauricio de Mendonça, and that the same is a true and faithful Copy.

Which I testify.

(Signed)

W. H. SAVAGE, N. P.

October 10, 1826.

Proctor's Bill for conducting Defence for 3 Months, finally	£.	s.	d.
arranging all Documents, and transacting the Ship's Business,	200	0	0
Total Amount of Supplies, with 5 per Cent. Com.	£220	18	3
Deduct owing to the Captain	-	-	-
	26	3	0

194 15 3

£394 15 3

Feeding Slaves from Shore - 122 10 0

£517 5 3

Paid by

A Bond on the Power of Attorney, for Messrs.

Garry and Curtis to pay or retain in their

hands - - - - - £200 0 0

A Bill on Garry and Curtis, to Mr. Gaul, for

Slaves' feed - - - - - 122 10 0

A Bill on the Owner - - - - - 194 15 3

517 5 3

(Signed)

W. H. SAVAGE.

No. 25.

*The Viscount d'Itabayana to The Earl of Dudley.*

MYLORD,

Park Crescent, ce 3 Mars 1828.

LE Brick Brésilien "*Hiroina*," dont le Propriétaire est le Sieur Manoel Cardozo dos Santos, Négociant à Bahia, ayant été rencontré au Nord de l'Equateur, et sans avoir des Esclaves à bord a été pris par la Frégate de Sa Majesté Britannique la "*Maidstone*," et condamné par la Commission Mixte de Sierra Leone, le 24. Janvier 1827, sous le fondement d'avoir contrevenu au Passeport qui lui avait été délivré pour aller dans les Ports d'Afrique au Sud de l'Equinoxiale.

Ce fait est constaté, Mylord, par la Copie ci-jointe du Jugement rendu par la Commission susmentionnée.

Or, comme le cas de la déviation du voyage indiqué au Passeport ne peut être censé une infraction de la Convention du 28 Juillet 1817, et que l'Article 6me. de cet Acte, ainsi que le 1er. des Instructions additionnelles que je transcrirai ici mot à mot :—

"No British or Portuguese Cruizer shall detain any Slave-ship not having Slaves actually on board."

"Ships on board of which no Slaves shall be found intended for the purpose of traffick, shall not be detained on any account or pretence whatever,"

défendent, de la manière la plus absolue, la capture des Bâtimens Brésiliens et Anglais qui n'eurent pas des Esclaves à bord, l'injustice du Jugement condamnatore est de la dernière évidence, et impose à mon Gouvernement le devoir de réclamer, comme il le fait par mon organe, l'indemnité qui est due au Propriétaire du Brick condamné aux termes des §§ 1<sup>er</sup>. 2d. et 3<sup>me</sup>. de l'Article 8me. du Règlement additionnel à la Convention précitée.

Connoissant la droiture du Ministère de Sa Majesté Britannique, je suis intimement persuadé qu'il fera droit à cette juste réclamation ; et dans cette attente, je vous prie, Mylord, d'agréer les assurances, &c.

(Signé)

LE VICOMTE D'ITABAYANA.

Son Excellence Lord Dudley.

&c.

&c.

&c.

(Translation.)

MY LORD,

*Park Crescent, March 3, 1828.*

THE Brazilian Brig, "*Hiroina*," owned by Sr. Manoel Cardozo dos Santos, a Merchant of Bahia, having been met with to the North of the Equator, and without having any Slaves on board, was taken by His Britannick Majesty's Frigate, the "*Maidstone*," and condemned by the Mixed Commission at Sierra Leone on the 24th of January 1827, on the ground of having contravened the Passport granted to it, for the purpose of proceeding to Ports of Africa, South of the Equator.

This fact is confirmed, my Lord, by the Copy, herewith enclosed, of the Sentence passed by the above-mentioned Commission.

Now as the case of the deviation from the Voyage pointed out in the Passport cannot be considered as an infraction of the Convention of the 28th of July 1817, and as the 6th Article of that Act, as well as the 1st of the Additional Instructions, which I here transcribe, word for word:—

"No British or Portuguese Cruizer shall detain any Slave-ship not having Slaves actually on board."

"Ships on board of which no Slaves shall be found intended for the purpose of traffick, shall not be detained on any account or pretence whatever," prohibit, in the most absolute manner, the Capture of Brazilian and English Vessels which have not Slaves on board; the injustice of the Sentence of condemnation is very evident, and imposes upon my Government the duty of claiming, as I now do, in its behalf, the indemnity which is due to the Proprietor of the condemned Brig, according to the 1st, 2d, and 3d Sections of the 8th Article of the Regulation annexed to the before-mentioned Convention.

Fully persuaded of the uprightness of His Britannick Majesty's Government, I feel confident that it will do justice to this Claim; and in this persuasion, I beg you, my Lord, to accept, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Dudley,*

&amp;c.      &amp;c.      &amp;c.

Enclosure in No. 25.

*Sentence of the Mixed Commission at Sierra Leone, in the Case of the Brazilian Brigantine "*Hiroina*."*

British and Portuguese Court of Mixed Commission, Sierra Leone.

BEFORE His Excellency Sir Neil Campbell, Knight, His Britannick Majesty's Commissary Judge, and Joseph Reffell, Esq., His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty, The King of Portugal.

PRESENT, WILLIAM SMITH, Esq., Registrar.

*Wednesday, the 24th Day of January, in the Year of our Lord 1827.*

Brigantine "*Hiroina*," Miguel Antonio Netto, Master.

Our Sovereign Lord The King, against the Brigantine, or Vessel, called the "*Hiroina*," whereof Miguel Antonio Netto was Master, her Tackle, Apparel, and Furniture, and all and singular the Goods, Wares, and Merchandize on board the same, and therewith seized by His Majesty's Ship "*Maidstone*," Charles Bullen, C.B. Commander, and brought to Sierra Leone, and against all persons in general.



William Henry Savage, Proctor on behalf of the Claimant, prayed the Claim given by him to be admitted, and the said Brigantine and Cargo to be restored as claimed.

George Rendall, Proctor on behalf of the Captors, prayed the said Claim to be rejected, and the said Brigantine and Cargo to be condemned.

The said Commissary Judge, and Commissioner of Arbitration, having heard the said Claim and Proofs read, pronounced the said Brigantine "*Hiroina*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been at the time of Capture and Seizure thereof engaged in the illicit Traffick in Slaves, and as such, subject and liable to confiscation, and condemned the said Brigantine, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as good and lawful Prize, and as taken in such illicit traffick by His Britannick Majesty's Ship of War "*Maidstone*," Charles Bullen, C. B. Commander, and also that it had been proved, that, at the time of passing the said Sentence, no Slaves were on board, but that the said Brigantine "*Hiroina*," was captured off Lagos, in 6. 10. Latitude North of the Equator, and 4. East of the Meridian of London, in direct opposition to her Imperial Passport, marked No. 17, which obligated her to enter solely such Ports and Places, South of the Equator, where the Slave-trade is permitted to the Subjects of Portugal, Algarves, and Brazil, and against the true intent and meaning of the 2d Article of the Additional Convention to the Treaty with Portugal of the 22d of January 1815, signed at London the 28th of July 1817.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence, made in the British and Portuguese Court of Mixed Commission, established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, the 24th day of February, in the Year of our Lord 1827.

(L. S.)

(Signed) WM. SMITH, Registrar.

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No. 26.

*The Viscount d'Itabayana to The Earl of Dudley.*

MYLORD,

*Park Crescent, ce 3 Mars 1828.*

LE Brick Brésilien "*Cerqueira*," appartenant au Sieur Jozé Cerqueira Lima, Négociant à Bahia, ayant été pris au Port d'Onin le 30 Janvier 1824, par le Commodore Courtenay, Commandant de la Frégate de Sa Majesté Britannique la "*Bann*," a été amené à Sierra Leone, où il fut mis en liberté le 16 Avril 1824, par ordre du dit Commodore et sans que la Commission Mixte eût instruit aucune Procédure ou rendu aucun Jugement sur cette injuste saisie, comme elle devoit l'avoir fait, en exécution de l'Article 8<sup>me</sup>, de la Convention du 28 Juillet 1817, des Instructions, et du Règlement, additionnels.

La détention arbitraire de ce Brick, ainsi que l'irrégularité de sa restitution, sont constatées, Mylord, par le Procès ci-joint, qui fut fait à Bahia par le Magistrat compétent; et comme par l'omission des formalités établies par l'Article 8<sup>me</sup> des Actes précités, le Propriétaire du Brick en question, a été privé de l'indemnité qui lui était dûe en conformité de l'Article 8<sup>me</sup> du Règlement

susmentionné, mon Gouvernement m'a chargé de la réclamer du Ministère de Sa Majesté Britannique; et c'est ce que je fais par la présente Note, dans la ferme persuasion que votre Excellence sentira toute la justice de cette réclamation.

Veuillez agréer, Mylord, les assurances, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Dudley,*  
 &c. &c. &c.

(Translation.)

MY LORD,

*Park Crescent, March 3, 1828.*

THE Brazilian Brig "*Cerqueira*," belonging to the Sieur Jozé Cerqueira Lima, a Merchant at Bahia, having been captured in the Port of Onim, on the 30th January 1824, by Commodore Courtenay, commanding His Britannick Majesty's Frigate "*Bann*," was carried to Sierra Leone, where it was liberated on the 16th of April following, by order of the said Commodore, and without the Mixed Commission having instituted any Process, or passed any Sentence, on this unjust Seizure, as it ought to have done, agreeably to the 8th Article of the Convention of the 28th July 1817, of the Instructions, and of the Regulation, annexed thereto.

The arbitrary detention of this Brig, as well as the irregularity of its restitution, are confirmed, my Lord, in the accompanying Process, which was instituted at Bahia before the competent Magistrate; and as, by the omission of the formalities established by the 8th Article of the Acts abovementioned, the Proprietor of the Brig in question was deprived of the indemnity due to him, in conformity with the 8th Article of the abovementioned Regulation, my Government has charged me to claim the same of the Government of His Britannick Majesty, which I now do by the present Note, in the firm persuasion, that your Lordship will acknowledge the justice of this demand.

Be pleased to accept, my Lord, the assurances, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Dudley,*  
 &c. &c. &c.

Enclosure in No. 26.

(Abstract.)

*Process instituted at Bahia, in the Case of the Brazilian Brig "Cerqueira,"*

(1.) CERTIFICATE of the Notary Publick, Antonio Gonz. Gravata, stating that a Protest had been given to him by Joze Cerqueira Lima, Owner of the Brig "*Cerqueira*," against its unjust Seizure.

(2.) PROTEST of the above Owner, addressed to the Judge of the Customs, stating, that he sailed with the "*Cerqueira*" from Bahia on the 8th November, 1823, bound for Molembo, and that when at anchor in the Port of Onim, his Vessel was seized, without having Slaves on board, or having traded with them in any shape; and that he desires to establish and ratify in the proper Tribunals, and by Law, the Protest made by the Ship's Master against the Captors, and the injustice of their Seizure.

(3.) PROTEST of the Master, Manoel Cardozo dos Santos, against the British Nation, for the amount of £60,000 sterling, on account of the violence done to the "*Cerqueira*," by a British Vessel ;—stating that he sailed from Bahia with the "*Cerqueira*" on the 8th of November, 1823, bound to Mo-Iembo, and that, partly from stress of weather, and partly from want of provisions, he was forced to put into the Port of Onim, on the 17th of December, where, on account of a war with the people of Badagry, he was forced to remain three weeks, during which time he could not carry on any traffick for the supplies he wanted ;—that, on the 25th of the said Month, he was visited by a British Vessel, which found no fault with his Papers ;—that he was twice visited by another English Vessel, which departed peaceably ;—that on the 30th January, 1824, a Vessel called the "*Bann*," anchored with the British Flag hoisted, from which, on the following day, several Boats were sent full of armed men, which anchored opposite to the house of an Englishman ; and on coming on Shore they demanded from the King of the Port the delivery of the Portuguese Captains, who were then dealing for Slaves ; that the King told them that the Portuguese Captains were not bartering for Slaves, on which the Officers said that if they were not delivered up the next day they would fire on the Place ; that they then proceeded to the Factory where he was, and told him to consider his Vessel as captured for trading in Slaves ; he went again to the King for the purpose of proving that he had not dealt in Slaves, whereupon the English spiked three guns in the Harbour, fired on the Town and killed several persons ; kept him from communicating with his Vessel, and finally, in his absence, set sail with his Ship, and several other Vessels belonging to Brazil, and that, therefore, he gives up all responsibility, and formally protests.

(4.) JUDICIAL RATIFICATION, enumerating all the particulars of the above Protest in the name of the Owner.

(5.) AFFIDAVIT of Jose Rodriguez, Pilot and Master of the Schooner "*Estrella*," stating that, in the Port of Ajuda, he met with an American Brig, carrying on board, with several others, Manoel Cardozo dos Santos, who recapitulated to him the contents of the Protest (3), and declaring the English Ship's name to be the "*Bann*," Captain Courtenay.

(6.) AFFIDAVIT of Jose Ramos Gomes, Pilot of the Schooner "*Estrella*," to the same effect.

(7.) AFFIDAVIT of Joze de Souza, Sailor on board the "*Estrella*," to the same effect.

(8.) AFFIDAVIT of Manoel Luis Viana, Sailor on board the "*Estrella*," to the same effect.

(9.) AFFIDAVIT of Joze Simoens, Sailor on board the "*Estrella*," to the same effect.

(10.) AFFIDAVIT of Joze Albino Araia, Mate on board the "*Cerqueira*," to the same effect.

(11.) AFFIDAVIT of Marcellino Antonio, Sailor on board the "*Cerqueira*," to the same effect.

(12.) AFFIDAVIT of Joze Maria de Oliveira, Sailor on board the "*Cerqueira*," to the same effect.

(13.) AFFIDAVIT of Joao da Silva, Sailor on board the "*Cerqueira*," to the same effect.

(14.) AFFIDAVIT of Antonio Joze Pereira Guimaraens, Sailor on board the "*Cerqueira*," to the same effect.

(15.) AFFIDAVIT of Thomé da Souza da Bocha, Sailor on board the "*Cerqueira*," to the same effect.

(16.) AFFIDAVIT of Joze Tibureio, Sailor on board the "*Cerqueira*," to the same effect.

(17.) AFFIDAVIT of Joze Antonio, Sailor on board the "*Cerqueira*," to the same effect.

(18.) AFFIDAVIT of Joze Lopez, Sailor on board the "*Cerqueira*," to the same effect.

(19.) AFFIDAVIT of Paulino Pereira, Sailor on board the "*Cerqueira*," to the same effect.

(20.) AFFIDAVIT of Domingos da Silva, Sailor on board the "*Cerqueira*," to the same effect.

### No. 27.

#### *The Viscount d'Itabayana to The Earl of Dudley.*

MYLORD,

*Park Crescent, cc 3 Mars, 1828.*

LE Commodore Courtenay, Commandant de la Frégate de Sa Majesté Britannique la "*Bann*" a capturé au Port d'Onin, le 30 Janvier 1824, le Bâtiment Brésilien "*Créola*," appartenant aux Sieurs Antonio Pedroso de Albuquerque et Vicente de Paula Silva, Négociants à Bahia.

Amené à Sierra Leone, cette Prise y a été relachée, le 16 Avril, par ordre du capteur, et sans que la Commission Mixte eût instruit aucun Procès ou rendu aucun Jugement sur cette saisie, comme elle aurait dû le faire, aux termes des Articles 8mes de la Convention du 28 Juillet 1817, des Instructions, et du Règlement, additionnels.

La détention injuste de ce Bâtiment, ainsi que la restitution illégale qui en fut faite au bout de 76 jours, et le pillage qu'il a souffert dans la traversée du Port d'Onin à Sierra Leone, de la part d'un Corsaire, portant Pavillon Espagnol, sont constatés, Mylord, par la Procédure ci-jointe, instruite à Bahia par le Magistrat compétent, et avec assignation du Vice Consul de Sa Majesté Britannique, y résidant.

Et comme par l'omission des formalités prescrites par les Articles 8mes des Actes précités, les Propriétaires du dit Bâtiment furent privés de l'Indemnité qui leur était dûe d'après l'Article 8me du Règlement sus-mentionné, je suis chargé par mon Gouvernement de la réclamer du Ministère de Sa Majesté Britannique; et tel est, Mylord, l'objet de la présente Note.

J'ose espérer, Mylord, que vous ferez droit à une aussi juste réclamation; et dans cette persuasion, je vous prie d'agréer les assurances, &c.

(Signed) LE VICOMTE D'ITABAYANA.

(Translation.)

MY LORD,

*Park Crescent, March 3, 1828.*

THE Brazilian Vessel "*Creola*," belonging to Messrs. Antonio Pedroso de Albuquerque, and Vicente de Paula Silva, Merchants at Bahia, was captured in the Port of Onim, on the 30th of January 1824, by Commodore Courtenay, commanding His Britannick Majesty's Frigate "*Bann*."

This Prize was carried to Sierra Leone, where it was liberated on the 16th of April, by order of the Captor, and without the Mixed Commission having instituted any Process, or passed any Sentence, on this Seizure, as it ought to have done, agreeably to the terms of the 8th Article of the Convention of the 28th of July 1817, of the Instructions, and of the Regulation, annexed thereto.

The unjust Capture of this Vessel, as well as the illegal restitution of it after a detention of 76 days, and its pillage by a Corsair, under Spanish Colours, on its passage from the Port of Onim to Sierra Leone, are confirmed, my Lord, in the accompanying Process, which was instituted at Bahia, before the competent Magistrate, and was signed by the Vice Consul of His Britannick Majesty resident at that Place.

As, by the omission of the formalities prescribed by the 8th Article of the beforementioned Acts, the Proprietors of the said Vessel were deprived of the Indemnity due to them, agreeably to the 8th Article of the Regulation abovementioned, I am charged by my Government to claim the same of the Government of His Britannick Majesty; and this, my Lord, is the object of the present Note.

I venture to hope, that your Lordship will do justice to so well founded a Claim; and in this persuasion, I pray you to accept the assurances, &c.

(Signed) THE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Dudley,*  
 &c.                      &c.                      &c.

Enclosure in No. 27.

(Abstract.)

*Process instituted at Bahia, in the Case of the Brazilian Brig "Creola."*

(1.) CERTIFICATE of the Notary Publick, Joao Antonio de Fonseca Lessa, stating that a Protest duly legalized, had been given to him by V. de Paulo Silva, and A. Pedro Albuquerque, Owners of the Brig "*Creola*," against it unjust seizure.

(2.) PROTEST of the above Owners, addressed to the Judge of the Customs, stating that the "*Creola*," while at anchor in the Port of Onim, without having Slaves on board, or trafficking therein, was arbitrarily seized; and that they desire to establish and ratify in the proper Tribunals, and by Law, the Protest made by the Ship's Master against the Captors, and the injustice of their seizure.

(3.) PROTEST of the Master, Andre Pinto da Silveira, against the British Nation for 80 contos of Reis, on account of the violence done to the "*Creola*," by an English Vessel, in the Port of Onim; stating that he sailed from Bahia on the 29th of October 1823, bound for Molembo; and having encountered bad weather, and lost his foremast, and it being impossible to go elsewhere, he made for the Port of Onim, where, on his arrival, the Cerqueira gave him every assistance: that while in that Port, he was joined by a British Ship of War, and visited by her; but that he knows not the Ship's name, or that of

her Commander; after which he laid in fresh supplies and water, and then proceeded to unload the Cargo, consisting of brandy and tobacco, and to make exchanges for cloth, ivory, and oil: that on preparing to quit Onim, on the 30th of January, he was met by an English Ship of War, which anchored, and sent on the 31st several Boats across the Bar, having on board armed men and cannon, which anchored opposite the house of an Englishman; and on coming on Shore, the Officer told him and the Captain of the "Cerqueira" to consider their Vessels as captured, and that he came to seek for Slaves, which he knew we had been purchasing; that the traffick was denied, and no Slaves found in our factory, on which the Boats fired on the Town, and, after killing a number of people, returned to their Vessel, still keeping him, the Master, from communicating with his Crew and Ship, by firing on every Boat which set off for the purpose of going thither, and that, at last, the Brig sailed by force, along with the English Ship, in his absence; and that, therefore, he gives up all responsibility, and protests.

(4.) JUDICIAL RATIFICATION, enumerating all the particulars of the above Protest, in the name of the Owners.

(5.) NOTIFICATION of the above Protests to the English Vice Consul, Mr. Follett.

(6.) AFFIDAVIT of Jose Rodriguez, Pilot and Master of the Schooner "Estrella," stating that, in the Port of Ajuda, he met with an American Brig, carrying on board, along with several others, the Master of the "Creola," who recapitulated to him the contents of the Protest (3).

(7.) AFFIDAVIT of Joze Ramos Gomez, Pilot of the Schooner "Estrella," to the same effect.

(8.) AFFIDAVIT of Jose de Souza, Sailor on board the "Estrella," to the same effect.

(9.) AFFIDAVIT of Manoel Luis Vianna, Sailor on board the "Estrella," to the same effect.

(10.) AFFIDAVIT of Jose Simões, Sailor on board the "Estrella," to the same effect.

(11.) AFFIDAVIT of Jose Rodriguez Ferreira, Pilot of the Ship "Creola," confirmatory of the contents of the Master's Protest.

(12.) AFFIDAVIT of Joao da Matta de Santa Anna, Sailor on board the "Creola," to the same effect.

(13.) AFFIDAVIT of Manoel de Santa Luzia, Sailor on board the "Creola," to the same effect.

(14.) AFFIDAVIT of Sebastião da Rocha Soares, Sailor on board the "Creola," to the same effect.

(15.) AFFIDAVIT of Francisco Marquez, Sailor on board the "Creola," to the same effect.

(16.) AFFIDAVIT of Jacinto Antonio Pereira Carneiro, Assistant Mate on board the "Creola," to the same effect.

No. 28.

*The Earl of Dudley to The Right Hon. Robert Gordon.*

SIR,

*Foreign Office, March 6, 1828.*

I HAVE to acquaint you, for your information, and for communication to the Government of The Emperor of Brazil, that The King, in conformity with the 4th Article of the Convention, signed at Rio de Janeiro on the 23d of November 1826, for the final abolition of the Slave-trade, has been graciously pleased to nominate and appoint Henry Hayne, Esq. to be His Majesty's Commissary Judge, and Alexander Cunningham, Esq. to be His Majesty's Commissioner of Arbitration, to the Mixed British and Brazilian Commission, established at Rio de Janeiro under that Convention; and George Jackson, Esq. to be His Majesty's Commissary Judge, and William Smith, Esq. to be His Majesty's Commissioner of Arbitration, and Joseph Reffell, Esq. to be Secretary or Registrar to the Mixed British and Brazilian Commission, established under the said Convention at one of His Majesty's Settlements on the Coast of Africa.

I am, &c.

*The Right Hon. Robert Gordon,*  
 &c. &c. &c.

(Signed) DUDLEY.

No. 29.

*The Earl of Dudley to The Viscount d'Itabayana.*

SIR,

*Foreign Office, March 6, 1828.*

IN answer to your Letter of the 26th of February 1828, I have the honour to acquaint you, that the names of the Gentlemen whom The King, in conformity with the 4th Article of the Convention, signed at Rio de Janeiro on the 23d of November 1826, for the final abolition of the Slave-trade, has been pleased to nominate to reside, on His Majesty's part, in one of the British Settlements on the Coast of Africa, are George Jackson, Esq. as His Majesty's Commissary Judge, and William Smith, Esq. as His Majesty's Commissioner of Arbitration, and Joseph Reffell, Esq. as Secretary or Registrar to the said Commission; and I have the honour further to acquaint you, that His Majesty has been pleased to nominate Henry Hayne, Esq. as His Majesty's Commissary Judge, and Alexander Cunningham, Esq. as His Majesty's Commissioner of Arbitration, to the Mixed British and Brazilian Commission, established at Rio de Janeiro, under the Convention before mentioned.

I am, &c.

(Signed) DUDLEY.

*Viscount d'Itabayana,*  
 &c. &c. &c.

No. 30.

*The Viscount d'Itabayana to The Earl of Dudley.*

MYLORD,

*Park Crescent, le 13 Mars 1828.*

INFORME par votre Note, en date du 6 de ce Mois, des noms des Personnes que Le Roi a daigné nommer pour remplir les fonctions de Commissaires aux Commissions Mixtes qui vont être établies à Rio de Janeiro et Sierra Leone, en vertu de l'Article 4me de la Convention du 23 Novembre 1826, je me suis empressé de porter ces nominations à la connoissance de L'Empereur, mon auguste Maître, afin qu'il puisse concourir de sa part à l'exécution de l'Article précité.

Mais comme l'arrivée des Commissaires Brésiliens à Sierra Leone, doit éprouver quelque retard, je crois devoir obvier cet inconvénient en nommant, provisoirement, le Sieur Joseph de Paiva, Vice-Consul du Brésil à Jersey, à la place de Commissaire-Juge, et le Sieur Guillaume Henri Savage, Sujet Britannique et *Proctor* à Freetown, à celle de Commissaire Arbitre, pour la Commission Mixte de cette Colonie. — Je vous prie donc, Mylord, de vouloir bien annoncer ces nominations provisoires aux Autorités de Freetown, pour que les Sieurs Paiva et Savage soient reconnus en leur qualité de Commissaires Brésiliens, et puissent remplir leurs fonctions respectives.

Veuillez en outre, Mylord, recevoir, &c.

(Signé) LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Dudley,*  
 &c. &c. &c.

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(Translation.)

MY LORD,

*Park Crescent, March 13, 1828.*

HAVING learnt, by your Note of the 6th Instant, the names of the Persons whom The King has been pleased to appoint, to discharge the duties of Commissioners in the Mixed Commissions about to be established at Rio de Janeiro and Sierra Leone, under the 4th Article of the Convention of the 23d of November 1826, I lost no time in communicating these Appointments to The Emperor, my august Master, in order that he may, on his part, take measures for giving effect to the Article in question.

But, as the arrival of the Brazilian Commissioners at Sierra Leone cannot take place without some delay, I think it my duty to guard against this inconvenience by appointing, provisionally, M. Joseph de Paiva, Vice-Consul of Brazil at Jersey, to the Situation of Commissary-Judge, and Mr. William Henry Savage, a British Subject, and a Proctor, residing at Freetown, to that of Commissioner of Arbitration, in the Mixed Commission in that Colony. I have therefore to request your Lordship to have the goodness to announce these provisional Appointments to the Authorities of Freetown, in order that Messrs. Paiva and Savage may be recognized in their character of Brazilian Commissioners, and may be enabled to fulfil their respective functions.

I pray your Lordship to accept the assurances, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Dudley,*  
 &c. &c. &c.



No. 31.

*The Viscount d'Itabayana to John Backhouse, Esq.*

MON CHER MONSIEUR,

*Park Crescent, le 28 Mars 1828.*

COMPTANT de faire partir incessamment pour Sierra Leone, le Sieur de Paiva, qui doit y remplir provisoirement les fonctions de Commissaire-Juge, je désire recevoir du Ministère de Sa Majesté Britannique, la certitude de ce qu'il a agréé les nominations que je lui ai notifiées par ma Note du 13 de ce Mois. Or comme ces nominations ont besoin d'une espèce d'*Exequatur* de la part du Gouvernement du Roi, je crois que cette formalité pourroit être remplie, au moyen d'une Dépêche adressée par Son Excellence Lord Dudley au Gouverneur de la Colonie en question ; et si vous êtes de cet avis, je vous prierai de me munir d'une Duplicate de cette Dépêche, afin que les nommés puissent la présenter au dit Gouverneur, accompagnée du Brévet que je vais leur délivrer dans les termes de la Minute ci-jointe, que je livre à votre approbation. Si vous croyez que la notification de ces nominations doit être faite autrement, ayez la bonté de le me dire franchement ; car je désire aller toujours d'accord avec vous, étant, comme j'ai l'honneur d'être, &c.

*John Backhouse, Esq.*  
&c. &c. &c.

(Signé) ITABAYANA.

(Translation.)

MY DEAR SIR,

*Park Crescent, March 28, 1828.*

AS I propose to despatch immediately to Sierra Leone, M. de Paiva, who is to discharge, provisionally, in that Colony, the duties of Commissary Judge, I am desirous of receiving from the Government of His Britannick Majesty, an assurance of their acquiescence in the Appointments, which I notified to them in my Note of the 13th Instant. As, however, these Appointments will require a species of *Exequatur* on the part of the British Government, I conceive that this formality might be accomplished, by means of a Despatch addressed by Lord Dudley to the Governor of the Colony in question ; and if you are of this opinion, I request you to furnish me with a Duplicate of such Despatch, in order that the Persons appointed may present it to the Governor, together with the Commission with which I propose to furnish them, to be drawn up according to the enclosed Form, which I submit for your approbation. Should you conceive that these Appointments ought to be notified in any other form, have the goodness to tell me so frankly, as I am anxious always to act in concert with you, being, &c.

*John Backhouse, Esq.*  
&c. &c. &c.

(Signed) ITABAYANA.

Enclosure in No. 31.

*Form of Commission of Appointment of M. de Paiva, as Brazilian Commissary Judge at Sierra Leone.*

NOUS, Vicomte d'Itabayana, Commandeur de l'Ordre Impérial de la Grande Croix du Sud, du Brésil, et de celui de Léopold d'Autriche, Membre du Conseil de Sa Majesté L'Empereur du Brésil, et Son Envoyé Extraordinaire et Ministre Plénipotentiaire près Sa Majesté Britannique, &c.

Savoir faisons à tous ceux à qui il appartiendra, qu'au nom de L'Empereur nous avons nommé le Sieur Joseph de Paiva, Sujet Brésilien, pour remplir les

fonctions de Commissaire Juge à la Commission Mixte qui va être établie à Sierra Leone, en exécution de l'Article 4<sup>me</sup> de la Convention faite à Rio Janeiro, le 23 Novembre 1826, entre Leurs Majestés Impériale et Britannique, pour l'abolition finale de la Traite des Nègres; et nous prions les Autorités de Sierra Leone de reconnoître le Sieur Joseph de Paiva en sa qualité de Commissaire Juge Brésilien, et de l'admettre à l'exercice de ses respectives fonctions.

En foi de quoi, nous avons fait et signé le present Brévet, en y apposant le Cachet de nos Armes.

Donné à Londres, &c.

N. B. Un Brévet semblable sera expédié au Sieur Guillaume Henri Savage, Sujet Britannique, résidant à Sierra Leone.

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(Translation.)

WE, Viscount d'Itabayana, Commander of the Imperial Order of the Grand Cross of the South, of Brazil, and of that of Leopold of Austria, Member of the Council of His Majesty The Emperor of Brazil, and His Envoy Extraordinary and Minister Plenipotentiary to His Britannick Majesty, &c.

Make known to all those whom it shall concern; that we have appointed, in the name of the Emperor, M. Joseph de Paiva, a Brazilian Subject, to discharge the duties of Commissary Judge in the Mixed Commission to be established at Sierra Leone, in execution of the 4th Article of the Convention, signed at Rio Janeiro on the 23d of November 1826, between His Imperial Majesty and His Britannick Majesty, for the final abolition of the Slave-trade; and we request the Authorities of Sierra Leone, to recognize the said M. Joseph de Paiva in his capacity of Brazilian Commissary Judge, and to admit him to the exercise of the duties thereunto appertaining.

In witness whereof we have drawn up and signed the present Commission, and sealed it with the Seal of our Arms.

Given at London, &c.

N. B. A similar Commission will be given to Mr. William Henry Savage, a British Subject, residing at Sierra Leone.

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No. 32.

*The Earl of Dudley to The Right Hon. Robert Gordon.*

SIR,

*Foreign Office, March 31, 1828.*

I TRANSMIT to you the accompanying Copy of a Despatch, dated the 22d of January last, and of its Enclosures, which I have received from His Majesty's Commissioners at Sierra Leone, containing the details of the Case of the "*St. Joao Voador*," a Brazilian Vessel, which was detained, and carried into Sierra Leone, upon a charge of being so concerned in illegal Slave-trade, as that she was liable to condemnation, under the Compacts existing between Great Britain and Brazil, but, upon adjudication, by the Mixed Commission at Sierra Leone, was declared to be acquitted of that charge, and decreed to be restored to her Owner.

You will communicate these Papers to the Brazilian Government, both as a proof of the scrupulousness with which His Majesty's Commissioners adhere to the Treaty, which is their natural and proper guide, and also of the fitness of concluding an Article, to the effect proposed in my Despatch to you of the 31st August 1827, for defeating the object of the attempts which are made, in every shape, by illegal Traders, to evade the penalties due to enterprizes con-

ducted in opposition to the spirit of the Treaty for putting down illegal Slave-trade.

I transmit to you likewise a Copy of a Despatch, which I have this day addressed upon the subject, to His Majesty's Commissioners at Sierra Leone.

I am, &c.

(Signed) DUDLEY.

*The Right Hon. Robert Gordon,*  
 &c.                      &c.                      &c.

No. 33.

*The Vicomte d'Itabayana, to John Backhouse, Esq.*

MON CHER MONSIEUR,

*Park Crescent, ce 15 Avril 1828.*

JE m'empresse de vous remercier de la communication que vous venez de me faire à l'égard de la nomination provisoire des Commissaires. Je ne suis pas de l'avis des Magistrats de la Couronne: car, ni dans la Convention du 23 Novembre 1826, ni dans celle du 28 Juillet 1817, il n'est pas dit que les Commissaires seront nommés par des Diplomes des deux Souverains. Mais, désirant éviter toute question, et prendre en même temps les mesures que réclament les intérêts Brésiliens à Sierra Leone, je me propose d'y envoyer, M. de Paiva, en qualité de Vice-Consul, muni d'un Brévet délivré par le Consul Général à Londres (ce qui est tout-à-fait conforme à l'usage); et je vous prie de me faire une courte réponse à ma Note, relative à la sus-dite nomination provisoire des Commissaires, afin que je puisse proposer à Lord Dudley celle du Vice-Consul ci-dessus indiqué.

Veuillez recevoir, mon cher Monsieur, les assurances, &c.

*John Backhouse, Esq.*  
 &c.                      &c.                      &c.

(Signé) ITABAYANA.

(Translation.)

MY DEAR SIR,

*Park Crescent, April 15, 1828.*

I HASTEN to thank you for the communication you have just made to me, respecting the provisional Appointment of Commissioners. I do not concur in the opinion of the Law-Officers of the Crown, for neither in the Convention of the 23d of November 1826, nor in that of the 28th of July 1817, is it stipulated, that the Commissioners shall be appointed by Instruments signed by the two Sovereigns. But, anxious to avoid all discussion, and at the same time, to take those measures which the interests of Brazil at Sierra Leone require, I propose to send thither M. de Paiva, as Vice-Consul, furnished with a Commission from the Consul General in London (which is quite in conformity with the established custom); and I request that you will favour me with a short Answer to my Note, relative to the above-mentioned provisional Appointment of Commissioners, in order that I may propose to Lord Dudley that of the Vice Consul, above referred to.

Accept, &c.

*John Backhouse, Esq.*  
 &c.                      &c.                      &c.

(Signed) ITABAYANA.

## No. 34.

*The Earl of Dudley to The Viscount d Itabayana.*

SIR,

*Foreign Office, April 25, 1828.*

I LOST no time in referring, for the consideration of His Majesty's Law-Advisers, the Letters which you did me the honour to address to me on the 13th and 28th Ultimo, respecting your provisional nomination of a Commissary Judge, and a Commissioner of Arbitration, on the part of The Emperor of Brazil, in the Mixed British and Brazilian Commissions, which, under the Treaties and Conventions between Great Britain, Portugal, and Brazil, are to be established at one of His Majesty's Possessions on the Coast of Africa.

By the 8th Article of the Convention of the 28th of January 1817, between Great Britain and Portugal, which Convention is confirmed by the Treaty of November 23, 1826, between Great Britain and Brazil, it is stipulated that the "Mixed Commissions" under the Convention shall be "formed of an equal number of Individuals of the two Nations, named for this purpose by their respective Sovereigns."

The 14th Article of the Regulations, appended to the Convention, and the 2d Additional Article of the 15th of March 1823, attached to the same Convention, point out the exceptions of death or illness, or unavoidable absence, of the Commissioners, in which cases this formality is to be dispensed with; and stipulate the manner whereby, in such cases, the inconvenience arising from the occurrences in question is to be remedied.

The Law Officers of the Crown have reported it as their opinion, that any authority, short of that stipulated by the Treaty, would be insufficient to invest the Persons appointed with the powers necessary to enable them to discharge the duties intrusted to them; and that, upon this ground, the proposal which you have made to me, for the acceptance, under the circumstances, of your provisional Appointment of Judges under the Treaty, cannot, with propriety, be acceded to by His Majesty.

It does not appear that the circumstance of one of the Gentlemen acting in the character of a Proctor, would have been a sufficient ground of objection to his Appointment as Judge; provided it were distinctly understood that he should not, either directly or indirectly, act in the capacity of Proctor during the time he should hold the Office of Judge, to which it was proposed to appoint him.

The fact, however, that the Gentleman in question is a British Subject, would, it is held, have proved an insurmountable bar to his nomination to be a Brazilian Judge, as it appears that such an Appointment would be at variance both with the words and with the spirit of the Convention, the object of which was to secure an impartial Tribunal, specifically by the stipulated means of a Mixed Commission, composed of an equal number of Individuals of the two Nations.

The mention of the view taken of this part of your application, may not be without its use, by its tendency to prevent the delay and the inconvenience of a nomination, which it might eventually be found could not be carried into effect.

I am, &amp;c.

(Signed)

DUDLEY.

*The Viscount d Itabayana,*  
 &c.    &c.    &c.

## No. 35.

*The Right Hon. R. Gordon to The Earl of Dudley.—(Received Aug. 17.)*

MY LORD,

*Rio de Janeiro, June 18, 1828.*

IN obeying the Instructions of your Lordship's Despatch, marked Slave-trade, of the 31st of March last, by communicating to this Government the details of the Case of the "*St. Joao Voador*," a Brazilian Vessel, which was decreed by the Mixed Commission at Sierra Leone to be restored to her Owners; I have availed myself of the opportunity to press for the conclusion of an Article betwixt the two Countries, for more expressly defining what is held to be illegal prosecution of the Slave-trade, as was before required of me by your Lordship.

The Copy of my Note to the Marquis of Aracaty to this effect is herewith enclosed.

I have also the honour to enclose the Copy of a Note which I have received from His Excellency, declaring that the Brazilian Government consider the Sentences which have been pronounced by the Commissioners at Sierra Leone, immediately after the publication of the Convention of the 23d of November 1826, as incompetent and illegal.

It is pretended in this Note, that the above Sentences have been given by an extinct Commission, and that, according to the regulation of the Additional Convention of the 28th of July 1817, they ought to be revised by the newly-created Commission at Sierra Leone, and afterwards referred to the Commission at Rio de Janeiro, upon the Appeal of the Claimants.

As the Marquis of Aracaty simply requests of me to forward his Communication to my Government, I have not thought it necessary to disprove its Claims, until I shall be made acquainted with your Lordship's sentiments upon it.

I am, however, clearly of opinion, that the 14th Article of the Regulations cannot be made to apply to the Cases in question, and, even if it were so applied, according to that same Article, the right of Appeal to the Commission in Brazil can no longer be claimed, a term of more than 6 Months having expired since the appointment of the Brazilian Commissioners ought to have been made at Sierra Leone.

It happens that, if the Brazilian Minister's demand were attended to, the several Cases of condemnation, which are mentioned in your Lordship's Despatch to me of the 31st of August 1827, would have to be brought before the Commission at this Place, in which case I should confidently expect the Appeals to be judged in favour of the Claimants.

I have, &c.

(Signed)

R. GORDON.

*The Right Hon. The Earl of Dudley,*

&c.      &c.      &c.

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First Enclosure in No. 35.

*The Right Hon. Robert Gordon to The Marquis of Aracaty.*

*Rio de Janeiro, June 9, 1828.*

THE Undersigned, &c. has the honour to transmit to His Excellency The Marquis of Aracaty, the Copy of a Despatch, and its Enclosures, addressed to the Earl of Dudley, by His Majesty's Commissioners at Sierra Leone, containing the details of the Case of the "*St. Joao Voador*," a Brazilian Vessel, which was detained and carried into Sierra Leone, as being liable to

condemnation, under the Compacts existing between Great Britain and Brazil. But although, from the evidence filed against this Vessel, there were strong grounds for suspecting that her ultimate object to the Northward of the Equator, was for the purpose of clandestinely shipping a Cargo of Slaves, nevertheless, upon adjudication by the Mixed Commission, she was released and restored to her Owner.

The object of the Undersigned, in communicating these Papers to the Marquis of Aracaty, is to furnish His Excellency with a proof of the scrupulousness with which His Majesty's Commissioners adhere to the Treaty, their natural and proper guide, and also of the fitness of concluding an Article to the effect proposed in the Note of the Undersigned of the 17th of December 1827.

The Undersigned has witnessed with regret, the silence which has been preserved by the Marquis of Aracaty upon the subject of that Note. It was written for the express purpose of proposing to the Brazilian Government to conclude an Article, which is become essential to the maintenance of the spirit, and object of the Treaty, for putting down illegal Slave-trade; an Article which might defeat the attempts of the illegal Trader, by declaring, that Vessels fitted up for the trade, if found to the North of the Line, and on the prohibited parts of the Coast of Africa, should be liable to condemnation, even if no Slaves were actually found on board.

In the same Note was enclosed, a Copy of Instructions from The Earl of Dudley to His Majesty's Commissioners, dated 31st of August 1827, in which they were told, that the British Government considered them as perfectly justified in the decision which they had pronounced, in condemnation of several Brazilian Vessels for infraction of the Treaty, and desiring them to act in future Cases on the same principles upon which that condemnation was grounded.

In recapitulating to His Excellency the Marquis of Aracaty, the contents of his Note of the 17th of December, the Undersigned entertains a confident hope, that they will be taken into immediate consideration, and that His Imperial Majesty will be induced to order the proposed Article to be concluded with the Undersigned; thereby carrying into complete effect the principles which called for the late Treaty between His Majesty The King of England, and His Imperial Majesty, for the abolition of illegal Slave-trade.

The Undersigned, &c.  
(Signed)

R. GORDON.

*His Excellency the Marquis of Aracaty,*  
&c. &c. &c.

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Second Enclosure in No. 35.

(Translation.)

*The Marquis of Aracaty to The Right Honourable. R. Gordon.*

*Rio de Janeiro, June 4, 1828.*

IT having come to the knowledge of His Majesty The Emperor, that the Mixed Commission at Sierra Leone, established in conformity to the Convention of July 28th 1817, between Portugal and Great Britain, has continued to pronounce Sentences against Brazilian Vessels, upon the ground of their carrying on an illicit trade in Slaves, and this after the publication of the Convention of November 23, 1826, between this Empire and Great Britain; the Undersigned, &c. has received orders to signify to the Right Honourable R. Gordon, &c. that the Imperial Government considers those Sentences as incompetent, and illegal, because of their being pronounced by an extinct Commission, and consequently, that it is proper that they be revised by the newly created Commission at Sierra Leone, and be afterwards referred to the Commission, created in the same manner, at Rio de Janeiro, during the first 6 Months, and while there are no Brazilian Commissioners in conformity to the 14th Article of the Regulation of the Additional Conven-

tion of the 28th of July 1817, which Regulation, according to the 2d Article of the said Convention of November 23, 1826, is to continue in force.

The Undersigned, in making this Communication to Mr. Gordon, hopes that he will transmit the same without delay to his Government, who will acknowledge the justice of this measure, which the Imperial Government consider it their duty to take, in favour of Brazilian Subjects, whose properties it is so necessary to protect.

(Signed) MARQUIS OF ARACATY.

*The Right Hon. R. Gordon,*  
 &c.            &c.            &c.

### No. 36.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 23 Août, 1828.*

EN vous transmettant le Diplome ci-joint, par lequel il a plu à L'Empereur, mon Maître, de nommer le Sieur Joseph de Paiva, Son Commissaire Juge à la Commission Mixte, qui va être établie à Sierra Leone, en exécution de l'Article 4me de la Convention du 23 Novembre 1826, j'ai l'honneur de vous prier de vouloir bien solliciter l'Exéquatur de Sa Majesté Britannique, afin que le susdit Commissaire puisse être reconnu en sa qualité, par les Autorités de la dite Colonie, et y exercer les fonctions auxquelles il est appelé.

Veuillez agréer, Mylord, les assurances, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*  
 &c.            &c.            &c.

(Translation.)

MY LORD,

*Park Crescent, August 23, 1828.*

IN transmitting to you the enclosed Commission, by which The Emperor, my august Master, has been pleased to appoint Mr. Joseph de Paiva, His Commissary Judge in the Mixed Commission, which is about to be established at Sierra Leone, in execution of the 4th Article of the Convention of the 23d of November 1826, I have the honour to request you to procure the Exequatur of His Britannick Majesty, in order that the abovementioned Commissioner may be recognized in that capacity, by the Authorities of that Colony, and that he may there exercise the functions of the Office to which he is appointed.

Accept, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*  
 &c.            &c.            &c.

Enclosure in No. 36.

(Translation.)

*Commission of Appointment of M. de Pavia, as Brazilian Commissary Judge of the Mixed Commission at Sierra Leone.*

I, DOM PEDRO I. Constitutional Emperor, and perpetual Defender, of the Empire of Brazil, etc, notify to those to whom the present Alvará shall come, that, it having been arranged by Article 4 of the Convention, concluded the 23d of November 1826, between this Empire and England, for the abolition of the Slave-trade, that there should exist Mixed Commissions, similar to those established in virtue of the Additional Convention of the 28th July 1817, be-

tween Portugal and Great Britain; and it being necessary to nominate the different Brazilian Functionaries for the Commission, which is to reside in Sierra Leone, I think it proper to appoint, as Commissary Judge of the same, Jozé de Paiva, with an annual Salary of 2,400 Milreis; and, by the present Alvará, I authorize him to hold the said Office; to authenticate which I have ordered the present Alvará to be prepared; signed by me, and sealed with the Seal of the Arms of the Empire.

Given in the Palace of Rio de Janeiro the 18th June, in the Year of the Birth of our Lord Jesus Christ, 1828, and the 7th of the Independence of the Empire.

(Signed) THE EMPEROR,

(L. S.)

(Signed)

MARQUESS DE ARACATY.

### No. 37.

#### *The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 26 Août, 1828.*

EN faisant une Convention pour l'abolition finale de la Traite des Nègres à l'expiration du terme de trois Ans, l'intention de nos Gouvernements respectifs a été, de terminer dans ce délai les nombreuses affaires relatives aux Indemnités qui sont dûes aux Sujets de L'Empereur, mon Maître, pour des Captures faites sur la navigation Brésilienne par les Croiseurs Anglais en Afrique, en contravention du Traité du 22 Janvier, 1815, et de la Convention du 28 Juillet 1817. Or, comme le Gouvernement de Sa Majesté Britannique n'a pas fait droit jusqu'à ce jour aux justes Réclamations que je lui ai présentées le 3 Mars dernier, et que les deux Hautes Parties Contractantes ont mis du retard à établir les deux Commissions Mixtes, mentionnées à l'Article 4me de la Convention précitée, je suis chargé par Sa Majesté Impériale d'offrir tous ces embarras à la considération du Ministère du Roi, et de lui faire les propositions suivantes :—

1°. Celle de proroger, au moyen d'un Acte additionnel le terme de 3 Ans, fixé par la Convention du 23 Novembre 1826, pour la cessation définitive de la traite.

2°. Celle d'établir, soit à Rio de Janeiro ou à Londres, une Commission Spéciale, à l'instar de celle qui a été créée en vertu de l'Article 9me de la Convention du 28 Juillet 1817, pour procéder à la révision de tous les Jugemens rendus par la Commission Anglaise de Sierra Leone, soit avant la Signature de la Convention du 23 Novembre 1826, ou à partir de cette époque, jusqu'à l'installation formelle des Commissions Mixtes stipulée dans l'Article 4me de cette Convention; ces derniers Jugemens étant manifestement nuls et nonavenus, pour avoir été prononcés par une Autorité qui est devenue incompétente, par suite de la Convention du 23 Novembre 1826, et de l'Acte du Parlement qui en a réglé l'exécution.

Telle est, Mylord, la double proposition que j'ai l'honneur de faire aujourd'hui au Ministère de Sa Majesté Britannique, et j'ai une opinion si avantageuse de sa droiture, que je n'entretiens le moindre doute sur son empressement à l'agréer. Dans cette juste attente, j'ai l'honneur de vous renouveler, Mylord, les assurances, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*  
 &c.      &c.      &c.



(Translation.)

MY LORD,

*Park Crescent, August 26, 1828.*

THE intention of our respective Governments, in concluding a Convention for the final abolition of the Slave-trade, at the expiration of the term of 3 Years, was to terminate, within that period, the numerous Cases of Indemnity due to the Subjects of The Emperor, my Master, for captures of Brazilian Vessels, made by English Cruizers, on the Coast of Africa, in contravention of the Treaty of the 22d January 1815, and of the Convention of the 28th July, 1817. As, however, the Government of His Britannick Majesty has not hitherto satisfied the just Claims which I presented to them on the 3d of March last; and as the High Contracting Parties have delayed to establish the two Mixed Commissions mentioned in the 4th Article of the aforesaid Convention; I am charged by His Imperial Majesty to bring these difficulties under the consideration of His Majesty's Government, and to offer to it the following propositions:—

1st. To extend, by means of an Additional Act, the term of 3 Years, fixed by the Convention of the 23d November 1826, for the final cessation of the traffick.

2dly. To establish, either at Rio de Janeiro, or at London, a Special Commission (similar to that formed under the 9th Article of the Convention of the 28th July 1817,) for the purpose of revising all the Judgments given by the British Commission at Sierra Leone, either before the Signature of the Convention of the 23d November 1826, or between that date and the formal Establishment of the Mixed Commission, stipulated by the 4th Article of the said Convention; the latter Judgments being obviously null and void, as having been pronounced by an Authority which has become incompetent, in consequence of the Convention of the 23d November 1826, and of the Act of Parliament regulating the execution thereof.

Such, my Lord, are the 2 Propositions which I have the honour to make to the Government of His Britannick Majesty; and I entertain such a high sense of its justice, that I have not the smallest doubt of its readiness to accede to them. In this expectation, I have the honour to renew, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*  
 &c.            &c.            &c.

No. 38.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 15 Septembre, 1828.*

COMME la justice de la proposition que je vous ai faite par ma Note du 26 Août dernier, m'en garantit l'agrément de la part du Ministère éclairé de Sa Majesté Britannique, et que je suis désireux d'en donner la certitude à mon Gouvernement, par le Paquebot qui va partir incessamment pour Rio de Janeiro et Buenos Ayres; j'ai l'honneur de m'adresser aujourd'hui à votre Excellence, pour la prier de vouloir bien faire une réponse à la Note précitée, et me mettre par là en mesure de porter à la connoissance de L'Empereur le résultat de la susdite proposition.

En même temps, je vous prie, Mylord, d'agréer les assurances, &c.

(Signed) ITABAYANA.

*Son Excellence Lord Aberdeen,*  
 &c.            &c.            &c.

(Translation.)

MY LORD,

*Park Crescent, September 15, 1828.*

AS the justice of the proposition which I made to you, in my Note of the 26th August last, convinces me that it will obtain the assent of the enlightened Ministry of His Britannick Majesty, and as I am desirous of communicating that fact to my Government, by the Packet which is on the point of sailing for Rio de Janeiro and Buenos Ayres; I have now the honour to request that your Excellency will favour me with an Answer to that Note, and thereby enable me to acquaint The Emperor with the result of the above-mentioned proposition.

In the mean time, &amp;c.

*His Excellency The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

(Signed) ITABAYANA.

No. 39.

*The Earl of Aberdeen to the Viscount D'Itabayana.**Foreign Office, September 15, 1828.*

THE Undersigned, &c. has the honour to acknowledge the receipt of the Note of M. Le Vicomte d'Itabayana, &c. dated the 26th Ultimo, containing 2 Propositions on the part of the Brazilian Government.

1st. To defer the period of the final abolition of the Slave-trade in the Empire of Brazil.

2dly. To appoint a Special Commission, either in London or at Rio de Janeiro, for the purpose of reviewing the Judgments pronounced by the English Commission at Sierra Leone, and alleged to be in contravention of the Treaties of the 22d of June 1815, and 28th of July 1817.

Before he proceeds to reply to these Propositions, the Undersigned thinks it necessary to notice the observations with which the Vicomte d'Itabayana prefaced them, in which it is alleged, that, in concluding a Convention for the final abolition of the Slave-trade, at the expiration of the period of 3 Years, it had been the intention of the respective Governments to terminate, in the interval, the numerous matters relating to Indemnities, said to be due to Brazilian Subjects, upon Cases of Slave-trade Captures, under the Treaties of 1815 and 1817.

Upon this allegation, the Undersigned has to observe, that, while his Government will always be desirous of doing justice, with the least possible delay, to all valid Claims of the description referred to, he is not aware of any pledge having been given to do this within the term specified by M. d'Itabayana; and that, upon a careful reference to the Protocols of the Conferences of the Plenipotentiaries, during the negotiation of the Treaty, he finds, that, although reasons do certainly appear to have been urged by the Brazilian Plenipotentiaries, for desiring an extension of the term of 3 Years, then agreed upon, no such ground, as that mentioned by the Vicomte d'Itabayana, was, at that time, brought forward on the part of Brazil.

It cannot now be necessary for the Undersigned to renew to M. d'Itabayana any assurances of the anxiety which has long been entertained by His Majesty's Government, and which has been so largely shared by the people of Great Britain, to hasten the complete abolition of this abominable traffick; nor can it be necessary to call to his recollection the great and numerous sacrifices which have been made in the prosecution of this great object.

The very notion expressed of an extension of the period, for which it is still permitted to endure, could not fail to be most unwelcome to every friend of humanity; and the Undersigned is bound to declare to the Vicomte d'Ita-

bayana, that he cannot hold out to him any expectation that His Majesty's Government can consent to any extension of the term, fixed by the Treaty, for the final abolition of the Slave-trade.

To the proposition of M. d'Itabayana, for the establishment of a Special Commission of Revision, the Undersigned is compelled to state, that he sees great and insuperable objections.

By the 8th Article of the Treaty of the 28th of July 1817, the Judgments pronounced by the Commission are declared not to be subject to any Appeal.

It is, indeed, provided, by the 12th Article of the Regulations annexed to the Treaty, that, when the Parties interested shall imagine that they have cause to complain of any evident injustice on the part of the Mixed Commission, they may represent it to their respective Governments, who reserve to themselves the right of mutual Correspondence, for removing, when they think fit, the Individuals who compose the Commissions.

The Undersigned is at present engaged in examining those Cases, respecting which M. d'Itabayana has already complained to His Majesty's Government; and, with every disposition to adhere to the principles of substantial justice, he hopes to be able to give to M. d'Itabayana such an Answer as may be satisfactory to the Government of His Brazilian Majesty.

The Undersigned avails himself, &c.

(Signed) ABERDEEN.

*The Vicomte d'Itabayana,*  
&c. &c. &c.

#### No. 40.

*The Right Hon. R. Gordon to The Earl of Aberdeen.—(Received Sept. 22.)*

MY LORD,

*Rio de Janeiro, July 27, 1828.*

I HAVE the honour to transmit to your Lordship a Copy of the Answer which has been given by the Marquis of Aracaty, to my Note of the 4th of December 1826, complaining of infractions of the Slave-trade Treaty at Maranham.

I have, &c.

(Signed) R. GORDON.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

Enclosure in No. 40.

(Translation.)

*The Marquis of Aracaty to The Right Hon. Robert Gordon:*

*Palace, Rio de Janeiro, June 21, 1828.*

THE Undersigned, &c. having received from the President of the Province of Maranham, the necessary information for returning a full Answer to the Note which the Right Honourable Robert Gordon, &c. addressed to the Government of His Imperial Majesty, on the 4th of December last, complaining of infractions of the Slave-trade Treaty in that Province; more particularly of those committed by the Schooner "Carolina," and the Brig "Pedro Primeiro;" has to communicate to him, that the first of these Vessels, in going from Cacheu to Cape Verd, was forced by stress of weather to touch at Maranham, where she made entry at the Custom-House, shewing herself by Passport to be Brazilian, and having on board 133 domestick Slaves in the employment of Dona Rosa de Carvalho Alvaranga and Sons, who were provided with a Passport of the Government of Cacheu, intended for 300.

domestick Slaves of the said Dona Rosa, a Passport which was granted to her in virtue of a permission from The King, Dom John VI. of glorious memory, given to Major Joao Pereira Barreto, husband of the same, in consequence of which, as there was no appearance whatever of fraud, the entry was given upon oath, as they were considered to be comprized in the Additional Article to the Treaty of the 22d of January 1815; the President of the said Province, having, however, conceived some doubt, as to whether or not such an admission was opposed to the execution of the Treaty, referred the settlement of this Affair to the Judicial Authorities, and the Slaves were, by Sentence of the Supreme Court of Judicature, judged to be free, and were distributed agreeably to the Alvarà of the 26th of January 1818. With regard to the second, it is true that she entered there on the 14th of August 1826, coming from Cacheu, in order to take in a fresh supply of necessaries, and that she sailed on the 15th of the same Month, but not having made entry at the Custom-House, it was not possible to ascertain any thing regarding the legality of her trade.

The Undersigned avails himself of this opportunity to impress upon Mr. Gordon, the impropriety of the expressions used by the British Consul at Maranham, against the *Ouvidor* of that City, in his Letter of March 14th 1827, expressions from which, as they cannot be permitted, it is to be hoped that the said Consul will in future abstain, which will greatly contribute to the maintenance of the harmony which ought to subsist betwixt the Authorities of this Empire, and those of His Britannick Majesty, the more so, as that Magistrate, having exactly fulfilled his duty, was not deserving of them.

(Signed)

MARQUEZ DE ARACATY.

*The Right Hon. Robert Gordon,*  
 &c.            &c.            &c.

#### No. 41.

*The Earl of Aberdeen to The Viscount d'Itabayana.*

SIR,

*Foreign Office, September, 26, 1828.*

I HAVE the honour to return to you the Commission of Appointment of M. de *Paiva*, to be Commissary Judge, on the part of The Emperor of Brazil, in the Mixed Commission, established at Sierra Leone, under the Convention of the 23d of November 1826, which Document was transmitted to me, with the Letter which you did me the honour to address to me upon this subject, on the 23d of August last; and I have to acquaint you, that His Majesty's Commissioners at Sierra Leone have been instructed, that the Appointment in question appears to be in due and proper form, so as to entitle M. de *Paiva* to enter upon the execution of the Office to which he is appointed.

I am, &c.

(Signed) ABERDEEN.

*The Viscount d'Itabayana,*  
 &c.            &c.            &c.

#### No. 42.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 17 Novembre 1828.*

N'AYANT pas pû repliquer plustôt à la Note que vous m'avez adressé le 15 Septembre dernier, en réponse aux deux Propositions que je vous ai faites, relativement à une prolongation du terme fixé par la Convention du 23 Novembre, 1826, pour l'abolition finale de la Traite des Nègres, et à l'établissement d'une Commission Spéciale pour la révision des Jugemens rendus par la Commission Mixte de Sierra Leone (dont la juridiction a été révoquée

par l'Article 4<sup>me</sup>. de la Convention précitée, ainsi que par l'Acte du Parlement en date du 2 Juillet 1827, qui en ordonna la mise en exécution) je m'acquitterai aujourd'hui de ce devoir, en alléguant les fortes raisons qui militent en faveur des susdites propositions.

Quant à la première ; j'aurai l'honneur de vous observer, Mylord, qu'au moment de la signature de la Convention susmentionnée, les Plénipotentiaires de L'Empereur mon Maître, ont fait à celui de Sa Majesté Britannique la déclaration suivante " Que la stipulation concernant l'abolition de la Traite des Nègres au bout de trois Ans, deviendrait nulle et non avenue, si, dans cet intervalle, le Portugal venait à défendre le Commerce d'Esclaves dans ses Colonies d'Afrique, ou si les Bâtimens Brésiliens destinés à faire ce commerce éprouvaient des interruptions de la part des Croiseurs de toute autre Nation."

Cette déclaration se trouve consignée dans la Note, dont la Copie est ci-jointe ; et comme le cas prévu d'interruption est, malheureusement arrivé, (puisque les Croiseurs Anglais ont arrêté, postérieurement à la signature de la sus-dite Convention, plusieurs Bâtimens Brésiliens, en contravention à l'Article 5<sup>me</sup>. de la Convention du 28 Juillet 1817, qui défend expressément la détention de tout Bâtiment Nègrier qui n'aurait point effectivement des Esclaves à son bord) mon Gouvernement a bien le droit de réclamer l'accomplissement de la clause comminatoire énoncée dans la Note de ses Plénipotentiaires ; mais il respecte tellement la foi des Traités qu'il se borne à demander uniquement, une courte prorogation du terme stipulé pour l'abolition définitive de la Traite des Nègres, afin de pouvoir concilier ses sentimens philanthropiques avec les intérêts de ses Sujets.

Quant à la seconde des sus-dites propositions ; j'aurai l'honneur de vous dire, Mylord, que toute Sentence prononcée par une Autorité incompétente, est un acte nul et invalide ; et comme les Jugemens rendus par la Commission Mixte de Sierra Leone sont frappés d'une nullité incontestable (puisque la juridiction attribuée à cette Commission a été abrogée par l'Article 4<sup>me</sup>. de la Convention du 23 Novembre 1826, et par l'Acte du Parlement Britannique, qui en regla l'exécution), il faut bien que nos Gouvernemens respectifs s'accordent sur le moyen de réparer cette illégalité, et il n'y a qu'un seul moyen légitime, qui est celui que je vous ai proposé, de la revision des Jugemens ci-dessus mentionnés, par une Commission Mixte instituée à cet effet.

Cet acte d'équité vient d'être pratiqué par mon Gouvernement, envers les Sujets Anglais, dont les Navires ont été capturés par infraction du blocus du Port de Buenos Ayres, et l'honneur du Gouvernement Britannique ne lui permettra pas de se refuser à l'application du principe de réciprocité que je réclame.

Passant maintenant à répondre à ce passage de votre Note, Mylord, qui est relatif au paiement des Indemnités que les Sujets Brésiliens réclament du Gouvernement de Sa Majesté Britannique, pour la saisie injuste de leurs Bâtimens, je conviendrai avec votre Excellence, que l'obligation d'effectuer ce paiement dans l'espace de trois Ans, ne se trouve pas expressément mentionnée, ni dans la Convention du 23 Novembre 1826, ni dans les Protocoles des Conférences des Plénipotentiaires respectifs.

C'est dans les Articles 5<sup>me</sup>, et 10<sup>me</sup>. de la Convention du 28 Juillet 1817, que cette obligation a été formellement contractée ; et comme cette Convention fait partie de celle du 23 Novembre 1826, qui fixa le terme de trois Ans pour la cessation finale de la Traite des Nègres, il est clair que les stipulations contenues dans ces deux Actes doivent être exécutées dans l'espace de tems qu'ils seront en vigueur.

Telles sont, Mylord, les raisons et les observations, que je dois vous présenter, en appui des propositions, que je vous ai faites dans ma Note du 26 Août dernier ; et je les crois si justes, que je les abandonne avec une entière confiance à la droiture du Ministère de Sa Majesté Britannique ; en vous priant d'agréer, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*  
 &c.      &c.      &c.

(Translation.)

MY LORD,

*Park Crescent, November 17, 1828.*

NOT having been able sooner to reply to the Note which you addressed to me on the 15th of September last, in answer to the two Propositions which I made to you, relative to an extension of the term fixed by the Convention of the 23d of November 1826, for the final abolition of the Slave-trade, and to the establishment of a Special Commission, for the revision of the Judgments passed by the Mixed Commission at Sierra Leone, (the jurisdiction of which has been annulled by the 4th Article of the before-mentioned Convention, as also by the Act of Parliament, dated 2nd of July 1827, which provided for its execution); I now acquit myself of this duty, by bringing forward the powerful reasons which weigh in favour of the above-mentioned Propositions.

With regard to the first; I have the honour to observe to your Lordship, that, at the time of the signature of the before-mentioned Convention, the Plenipotentiaries of The Emperor, my Master, made to the Plenipotentiary of His Britannick Majesty, the following declaration, "that the Stipulation respecting the abolition of the Slave-trade, at the end of 3 Years, should become void and of no effect, if, during that interval, Portugal should prohibit the Traffick in Slaves, in her African Colonies, or if Brazilian Vessels, engaged in this Commerce, should suffer any interruption from the Cruizers of any other Nation."

This declaration is contained in the Note, a Copy of which is enclosed; and, as the anticipated Case of interruption has unfortunately taken place, (since the British Cruizers have detained, subsequently to the Signature of the said Convention, many Brazilian Vessels, in violation of the 5th Article of the Convention of 28th of July 1817, which expressly forbids the detention of any Slave-vessel, which shall not have Slaves actually on board,) my Government has the right to demand the fulfilment of the Commnatory Clause set forth in the Note of its Plenipotentiaries; but it has such respect for the faith of Treaties, that it confines itself to demand only a short extension of the period stipulated for the definitive abolition of the Slave-trade, in order that it may reconcile its philanthropic sentiments with the interests of its subjects.

With respect to the second of the above-mentioned Propositions; I have the honour to state to your Lordship, that any Decision pronounced by an incompetent Authority is a null and invalid act; and, as the Judgments passed by the Mixed Commission at Sierra Leone evidently bear the stamp of invalidity (since the jurisdiction granted to that Commission has been annulled, by the 4th Article of the Convention of November 23, 1826, and by the Act of the British Parliament, which regulated the execution thereof), it becomes necessary that our respective Governments should come to some agreement as to the mode of remedying this illegality; and there is only one legitimate mode,—that which I have already proposed to you,—viz. the revision of the Judgments abovementioned, by a Mixed Commission instituted for that purpose.

Such an act of equity has just been exercised by my Government, towards the British Subjects whose Vessels have been captured for an infraction of the blockade of the Port of Buenos Ayres; and the honour of the British Government will not allow it to refuse the application which I claim, on the principle of reciprocity.

Proceeding next to answer that passage of your Note, my Lord, which relates to the payment of the Indemnities, which Brazilian Subjects claim from the Government of His Britannick Majesty, for the illegal seizure of their Vessels, I agree with your Excellency, that the obligation to effect that payment, within the space of 3 Years, is not expressly mentioned, either in the Convention of the 23d of November 1826, or in the Protocols of the Conferences of the respective Plenipotentiaries.

It is in the 5th and 10th Articles of the Convention of the 28th of July 1817, that this obligation was formally contracted; and as this Convention

forms part of that of the 23rd of November 1826, which fixed the term of 3 Years for the final cessation of the Slave-trade, it is evident that the Stipulations contained in these 2 Acts, ought to be executed within the time during which they are to remain in force.

Such, my Lord, are the reasons and the observations that I am bound to lay before you, in support of the Propositions which I made to you in my Note of the 26th of August last; and I believe them to be so well-founded, that I leave them with entire confidence, to the justice of His Britannick Majesty's Government, requesting you to receive the renewed assurances, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*His Excellency Lord Aberdeen,*  
&c. &c. &c.

Enclosure in No. 42.

(Translation.)

*The Brazilian Plenipotentiaries to The Right Hon. R. Gordon.*

*Palace of Rio de Janeiro, November 23, 1826.*

THE Undersigned, Plenipotentiaries of His Imperial Majesty, having reflected most maturely and deliberately upon the Treaty which they are about to sign, for the abolition of the Slave-trade, feel themselves obliged, for the good of Brazil, and the dignity of His Imperial Majesty, to submit to His Excellency the Right Hon. Robert Gordon, the British Plenipotentiary, two observations upon the consequences of that Treaty, which appear to them of the highest importance; and on this account they venture to hope that His Excellency will give them the necessary attention.

The Undersigned have to remark, first, that the stipulations of the Treaty, which relate to the lawful Traffick in Slaves, for the space of 3 Years, will become null and of no effect, either if Portugal shall prohibit this trade in her Ports on the Coast of Africa, or if the Cruizers of other Nations shall be disposed to interrupt the traffick, in virtue of the Treaties concluded for that purpose with Great Britain.

No less important is their second observation, respecting the well founded apprehension, that the Subjects of Brazil, finding themselves deprived of the facilities which they now enjoy, for procuring hands to keep up their existing Establishments, to promote the improvement thereof, and to attempt others, will be dissatisfied at this loss, and, instigated by those who are discontented with the actual form of Government in Brazil, will break out in complaints, which it will be impossible to remove, or into excesses which may not only alarm His Imperial Majesty, but also endanger even the continuance of tranquillity and good order.

It is of the utmost urgency to anticipate results so weighty and so important; and the Undersigned have no doubt that the Government of His Britannick Majesty, interested as it is, and as it has shewn itself so, efficaciously, in the stability of the Brazilian Throne, will still be willing to concur, by every effort in its preservation.

Animated by this hope, and calling upon your Excellency's practical knowledge of the actual state of the Empire of Brazil, the Undersigned have received the Commands of His Imperial Majesty to ask, at the hands of the Government of His Britannick Majesty, through the channel of your Excellency, for a guarantee, as far as regards the non-interruption of the execution of the Treaty which authorizes the lawful Traffick in Slaves during 3 Years; and secondly, for a declaration, stating the readiness of the Government of His Britannick Majesty to enter into and conclude some Arrangement, against the contingency to which are directed the just fears of His Imperial Majesty's Government, as the result of the abolition of the said Traffick.

The Undersigned, &c.

(Signed)

MARQUEZ DE INHAMBUPE.

MARQUEZ DE SANTO AMARO.

*The Right Hon. R. Gordon,*  
&c. &c. &c.

## No. 43.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 24 Novembre 1828.*

MUNI d'un Passeport pour faire la Traite des Nègres au Port de Molembo, avec la permission expresse de toucher dans quelques Ports au Nord de l'Equateur, pour y prendre des denrées et non pas des Esclaves, le Bâtiment Brésilien "*Tenterdora*" a appareillé de Bahia le 12 Novembre 1826, et étant entré au Port d'Ajudá il y fut arrêté, le 14 Mars 1827, par le Commodore Charles Bullen, Commandant de la Frégate de Sa Majesté Britannique la "*Maidstone*."

Cette arrestation ayant été faite en contravention à l'Article 5<sup>me</sup> de la Convention du 28 Juillet 1817, et au 1<sup>er</sup> des Instructions additionnelles, dont je transcris les propres termes :—"Ships, on board of which no Slaves shall be found intended for purposes of traffick, shall not be detained on any account or pretence whatever,"—devait être déclaré illégitime et arbitraire ; mais la Commission Mixte de Sierra Leone a jugé autrement, et tout en avouant que le Bâtiment détenu n'avoit point des Esclaves à son bord (comme vous verrez, Mylord, dans la Copie ci-jointe de son propre Jugement) elle l'a condamné, sous le prétexte de ce que l'on ne pouvoit pas accorder au dit Bâtiment la faculté de relâcher dans les Ports au Nord de l'Equateur, ce qui est tout à fait contraire à la lettre des Conventions du 22 Janvier 1815, et 28 Juillet 1817 ; car ce qu'elles défendent aux Navires Brésiliens, c'est de faire la Traite des Nègres dans les Ports situés au Nord de la Ligne, et non pas d'y entrer pour se ravitailler ou pour prendre des denrées du Pays.

L'injustice de la Sentence prononcée par la susdite Commission étant ainsi démontrée, j'aurai l'honneur de vous assurer, Mylord, cette Sentence est encore nulle et invalide ; parceque la juridiction attribuée à cette Commission par la Convention du 28 Juillet 1817, a été cassée par suite de l'Article 4<sup>me</sup> de la Convention du 23 Novembre 1826, et de l'Acte du Parlement Britannique en date du 2 Juillet 1827, qui en ordonna la mise en exécution.

Et puisque Sa Majesté Britannique s'est engagée par l'Article 5<sup>me</sup> de la Convention du 28 Juillet 1817, à bonifier toutes les pertes que ses Croiseurs occasionneraient aux Sujets de Sa Majesté Impériale, par des saisies arbitraires et illégales des Bâtiments Brésiliens employés au Commerce d'Esclaves, mon Gouvernement réclame aujourd'hui de celui du Roi l'indemnité qui doit être accordée au Sieur Luiz Antonio de Passo, Propriétaire du Navire "*Tenterdora*," et la somme qui, conformément aux Paragraphes 1, 2, 3, et 5, de l'Article 8<sup>me</sup>. du Règlement additionnel à la Convention précitée, doit lui être adjugée, est celle de Reis 48,992\$460, spécifiée dans le compte ci-joint, avec addition d'un intérêt de 5 pour Cent. à l'An, jusqu'à l'époque où le payement en sera effectué.

La justice de cette demande est si évidente, Mylord, que je vous l'adresse dans la ferme persuasion de ce qu'elle sera promptement agréée par le Ministère de Sa Majesté Britannique, et dans cette attente je vous prie de recevoir, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*

&amp;c. &amp;c. &amp;c.

(Translation.)

MY LORD,

*Park Crescent, November 24, 1828.*

THE Brazilian Vessel "*Tenterdora*," furnished with a Passport for carrying on the Slave-trade at the Port of Molembo, with express permission to touch at some Ports to the North of the Equator to take in provisions, but not Slaves, cleared out from Bahia on the 12th of November 1826, and, on en-



tering the Port of Ajuda, was there detained, on the 14th of March 1827, by Commodore Charles Bullen, commanding His Britannick Majesty's Frigate the "*Maidstone*."

This detention, having been made in violation of the 5th Article of the Treaty of 28th July 1817, and of the 1st Article of the Instructions annexed thereto, which I here transcribe, word for word:—"Ships, on board of which no Slaves shall be found, intended for purposes of traffick, shall not be detained on any account or pretence whatever:"—ought to have been declared illegal and arbitrary; but the Mixed Commission at Sierra Leone has decided otherwise, and, at the same time that it admitted that the Vessel detained had no Slaves on board (as you will see, my Lord, by the accompanying Copy of the Judgment pronounced), it condemned the Vessel, under the pretext that the said Ship could not be permitted to put into any of the Ports to the North of the Equator, which is quite contrary to the letter of the Convention of 22d January 1815, and 28th July 1817, which only prohibit Brazilian Vessels from trading in Slaves in the Ports situated to the North of the Line, and not from entering them for the purpose of victualling or procuring the productions of the Country.

The injustice of the Sentence pronounced by the abovementioned Commission, being thus demonstrated, I have the honour to assure your Lordship, that this Sentence is moreover null and void, because the jurisdiction granted to this Commission, by the Convention of 28th July 1817, has been annulled, in consequence of the 4th Article of the Convention of 23d November 1826, and of the Act of the British Parliament, dated 2d July 1827, which provided for its execution.

And since His Britannick Majesty has engaged, by the 5th Article of the Convention of July 28, 1817, to make good all the losses which his Cruizers might cause to His Imperial Majesty's Subjects, by arbitrary and illegal seizures of Brazilian Vessels employed in the Slave-trade, my Government now claims from that of The King, the indemnification which should be granted to M. Luiz Antonio de Passo, Owner of the Vessel "*Tenterdora*;" and the sum which, according to the 1st, 2d, 3d, and 5th Sections of the 8th Article of the Regulations annexed to the Convention abovementioned, ought to be awarded to him, is 48,992\$460 Reis, as specified in the accompanying Account, with the addition of Interest, at the rate of 5 per Cent. per Annum, to the time when the payment thereof shall be effected.

The justice of this demand is so evident, my Lord, that I address it to you in the firm persuasion that it will be promptly admitted by the Government of His Britannick Majesty; and in this expectation I beg you to accept, &c.

(Signed)

VICOMTE D'ITABAYANA.

*The Right Hon. The Earl of Aberdeen,*

&c.

&c.

&c.

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First Enclosure in No. 43.

*Sentence of the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Schooner "Tenterdora."*

British and Portuguese Court of Mixed Commission, Sierra Leone.

Before His Honour Hugh Lumley, His Britannick Majesty's Commissary Judge, and Joseph Reffell, Esq., His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, WILLIAM SMITH, Esq. Registrar.

*Monday, the 30th day of April, in the Year of our Lord 1827.*

Schooner "*Tenterdora*," Innocencio dos Santos Lopez, Master:

Our Sovereign Lord The King against the Schooner or Vessel, called the "*Tentadora*," whereof Innocencio dos Santos Lopez was Master, her Tackle,

Apparel, and Furniture, and all and singular the Goods, Wares, and Merchandize on board the same, and therewith seized and taken by His Majesty's Ship "Maidstone," Charles Bullen, C. B. Commander, and brought to Sierra Leone, and against all Persons in general.

Innocencio dos Santos Lopez, Master of the said Schooner, prayed the Claim by him given to be admitted, and the said Schooner and Cargo to be restored as claimed, as the sole property of Luis Antonio de Passo, of Bahia, together with Costs, Damages, and Expences.

William Henry Savage, Proctor, on behalf of the Captors, prayed the said Claim to be rejected, and the said Schooner and Cargo to be condemned.

The Commissary Judge and Commissioner of Arbitration, having heard the said Claim, and proofs read, pronounced the said Schooner "*Tenterdora*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and as such, subject and liable to confiscation, and condemned the said Schooner, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as good and lawful Prize, and as taken in such illicit traffick by His Majesty's Ship of War "Maidstone," Charles Bullen, C. B. Commander, and also that it had been proved that, at the time of passing the said Sentence, no Slaves were on board, but that the said Schooner "*Tenterdora*," was captured off Judo, in the Right of Benin, in 5. 19. Latitude North of the Equator, being irregularly licensed to touch on the Coast of Guinea, St. Thomas, and Princes Islands, on the West Coast of Africa, in her Imperial Passport, marked No. 41, dated Bahia, 11th of November 1826, which said Imperial Passport made it obligatory upon her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil, which, by the 2d Article of the Convention to the Treaty between Great Britain and Portugal, signed at London, the 28th of July 1817, is confined to the Territories of His Most Faithful Majesty to the South of the Equator, and against the true intent and meaning of the 2d Article, and of the 1st Article to the Treaty, signed at Vienna, the 22d of January 1815.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence, made in the British and Portuguese Court of Mixed Commission, established at Sierra Leone, in the Cause therein mentioned.—Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, the 11th day of May, in the Year of our Lord 1827.

(L. s.)

(Signed)

JOSEPH REFFELL, Registrar.

*Declaration and Protest of the Master of the "Tenterdora."*

By this Publick Instrument of Declaration and Protest, Be it known and made manifest, That, on the 13th day of April, in the Year of our Lord 1827, personally came and appeared before me, William Henry Savage, Notary Publick, by Royal Authority, duly admitted, sworn, and registered in the High Court of Chancery in England, Innocencio dos Santos Lopez, Master of the Schooner or Vessel, called the "*Tenterdora*," belonging to the Port of Bahia, in the Brazils, who did declare, and say as follows:—That the said Vessel "*Tenterdora*," being furnished with an Imperial Passport, sailed from the said Port, in the prosecution of a Voyage, for the purpose of procuring a Cargo of Slaves on the Coast of Africa. That the said Imperial Passport did especially permit the said Vessel to touch at Places to the North of the Line, wherefore the said Schooner "*Tenterdora*," was brought to an Anchor at Ajudo, on the Coast of Africa, for the purpose of supplying the said Schooner with fresh water, for the use of the Crew of the said Vessel, and also for the purpose of purchasing provisions for the remainder of the Voyage. That while so lying at anchor at Ajudo aforesaid, the said Schooner "*Tenterdora*" was visited, seized, captured, and detained, by His Majesty's Ship "Maidstone," whereof Commodore Charles Bullen, C. B. was Com-

mander, for an alleged breach of the Treaties made for the suppression of illicit Slave-trade, although the said Schooner had not any Slave or Slaves on board, nor had any been shipped or received on board during the Voyage; all which was fully made to appear to the said Captor; yet he, the said Commodore Charles Bullen, C. B. did order the said Schooner "*Tenterdora*," to be taken to Sierra Leone, and there proceeded against, and at which Place the said Schooner did arrive, and before the Court of Mixed Commission was libelled and proceeded against, and was therein condemned, as having been engaged in illicit Slave-trade, on this 13th day of April 1827, contrary to the express Articles of the Treaties between Great Britain and Portugal, which stipulate that Vessels only which have received any Slave or Slaves on board, or which may be found with a Slave or Slaves on board, should alone be liable to confiscation, of which fact there was full proof given, and acknowledged by the said Court in their Judgment, that there was no Slave or Slaves found, or alleged to have been taken on board during the Voyage. Therefore, he, the said Appearer, did declare to protest, as well against the said Seizure, as against the said Condemnation. Wherefore I, the said Notary, do by these presents, solemnly acknowledge the same, and in the name of the said Appearer, do make publick and declare the same, against all persons in general concerned, in the said alleged illegal Capture and detention of the said Schooner or Vessel "*Tenterdora*."

Of all which an Act being required of me, I have granted the same, under my hand and Seal of Office, this 13th day of April, in the Year 1827, at Freetown, in the Colony of Sierra Leone.

In testimonium veritatis,

(L. s.)

(Signed)

W. H. SAVAGE, N. P.

Second Enclosure in No. 43.

*Compte de l'Indemnité qui est due au Propriétaire du Bâtiment Brésilien "Tenterdora," injustement condamné par la Commission Mixte de Sierra Leone.*

	Reis.
Pour la valeur du Bâtiment - - - -	12,800\$000
Pour celle de la Cargaison - - - -	28,515\$500
Pour celle de 5 Esclaves, marins, qui furent affranchis	2,500\$000
Pour le frêt dû - - - -	5,176\$960
Reis -	48,992\$460

Outre les frais de la procédure et l'intérêt de 5 pour Cent. alloué par l'Article 8me du Règlement additionnel à la Convention du 28 Juillet 1817.

(Signé)

LE CHEV. DE MATTOS.

Londres ce 24 Novembre 1828.

(Translation.)

*Account of the Indemnity which is due to the Owner of the Brazilian Vessel "Tenterdora," unjustly condemned by the Mixed Commission at Sierra Leone.*

	Reis.
For the Value of the Vessel - - - -	12,800\$000
For that of the Cargo - - - -	28,515\$500
For that of 5 Slaves, seamen, who were liberated	2,500\$000
For Freight due - - - -	5,176,960
Reis -	48,992\$460

Besides the Costs of Proceedings, and Interest, at the rate of 5 per Cent. allowed by the 8th Article of the Regulation, annexed to the Convention of the 28th of July 1817.

(Signed)

THE CHEV. DE MATTOS.

London, 24th November, 1828.

No. 44.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

Park Crescent, ce 24 Novembre 1828.

ALLANT de Bahia à Molembo avec la permission, annoncée dans son Passeport, de relâcher dans quelques Ports au Nord de l'Equateur, le Brick Brésilien, "*Venturoso*," est entré dans le Port de Badagre; et y étant à l'ancre, employé uniquement à faire des réparations, et à charger quelques Articles d'un Commerce licite dont il avait besoin, il y fut arrêté le 14 Mars 1827, par le Capitaine Charles Bullen, Commandant de la Frégate de Sa Majesté Britannique la "*Maidstone*."

Amené par le Capteur à Sierra Leone, le Brick "*Venturoso*" quoiqu'il n'eut point des Esclaves à son bord au moment de la Capture, fut frappé d'un Jugement condamatoire, par la Commission Mixte de la dite Colonie, le 30 Avril 1827, sous le fondement d'avoir été rencontré dans l'un des Ports d'Afrique au Nord de la Ligne; ce qui est constaté par le Document ci-joint. Or, comme les Conventions du 22 Janvier 1815, et du 28 Juillet 1817, ne défendent pas aux Bâtimens Brésiliens ni l'entrée, ni l'exercice d'un commerce licite dans ces Ports, le Jugement en question est manifestement injuste et illégal.

De plus, Mylord, il est nul et invalide; car les actes émanés d'une Autorité incompétente ne sont valables; et tel est le cas de la Commission Mixte susmentionnée, dont la juridiction a été abrogée par l'Article 4me de la Convention du 23 Novembre 1826, ainsi que par l'Acte du Parlement Britannique, en date du 2 Juillet 1827, qui en ordonna la mise en exécution.

Le résultat de cette injuste condamnation ayant été l'adjudication du Brick "*Venturoso*," avec toute sa Cargaison, aux Capteurs; et Sa Majesté Britannique s'étant engagée, par l'Article 5me de la Convention du 28 Juillet 1817, à bonifier toutes les pertes que ses Croiseurs occasionneraient aux Sujets Brésiliens par des saisies arbitraires et illégales de leurs Bâtimens employés au Commerce d'Esclaves, mon Gouvernement réclame aujourd'hui de celui du Roi l'accomplissement de cette obligation en faveur du Sieur Antonio Pedroso de Albuquerque, Propriétaire du Brick injustement condamné, et l'indemnité qui lui est dû, d'après les Paragraphes 1, 2, et 5 de l'Article 8me du Règlement additionnel à la Convention précitée, est celle de Reis 62,414\$708, spécifiée dans le compte ci-joint, avec addition d'un intérêt de 5 pour Cent. à l'An, jusqu'à l'époque où le remboursement effectif et intégral en aura lieu.

Telle est, Mylord, la demande que j'ai l'honneur de vous adresser, sa justice m'en garantit le succès; et dans cette espérance je vous prie de recevoir les assurances, &c.

(Signé)

LE VICOMTE D'ITABAYANA

Son Excellence Lord Aberdeen,

&c. &c. &c.

(Translation.)

MY LORD,

Park Crescent, November 24, 1828.

THE Brazilian Brig "*Venturoso*," going from Bahia to Molembo, with permission, expressed in its Passport, to put into some of the Ports North of

the Line, entered the Port of Badagry; and, while at anchor there, employed solely in making repairs, and in taking on board some articles of lawful commerce, of which she was in want, she was seized on the 14th March 1827, by Captain Charles Bullen, commanding His Britannick Majesty's Frigate the "*Maidstone*."

The Brig "*Venturoso*" was carried by her Captor to Sierra Leone, and, although she had no Slaves on board at the time of Capture, she was condemned by the Mixed Commission of that Colony, on the 30th April 1827, on the ground of her having been found in one of the Ports of Africa, to the North of the Line; as is confirmed by the accompanying Document. Now, as the Conventions of 22d January 1815, and 28th July 1817, do not prohibit Brazilian Vessels either from entering, or from carrying on lawful commerce in these Ports, the Sentence in question is evidently unjust and illegal.

That Sentence, my Lord, is moreover null and void; for acts emanating from an incompetent Authority are not valid; and such is the Case with regard to the Mixed Commission abovementioned, the jurisdiction of which is annulled by the 4th Article of the Convention of 23d November 1626, as well as by the Act of the British Parliament, dated 2d July 1827, which provided for its execution.

The consequence of this unjust condemnation having been the adjudication of the Brig "*Venturoso*," with the whole of her Cargo, to the Captors; and His Britannick Majesty having engaged, by the 5th Article of the Convention of 28th July 1817, to make good all losses which his Cruizers might occasion to Brazilian Subjects, by arbitrary and illegal seizures of their Vessels employed in the Slave-trade; my Government now claims from that of The King, the accomplishment of this Engagement in favour of M. Antonio Pedroso de Albuquerque, Owner of the Brig unjustly condemned; and the indemnity which is due to him, according to the 1st, 2d, and 5th Sections of the 8th Article of the Regulation annexed to the Convention abovementioned, is 62,414\$708 Reïs, as specified in the accompanying Account, with Interest, at the rate of 5 per Cent. per Annum, until the period when the actual and complete payment thereof shall be effected.

Such, my Lord, is the demand which I have the honour to address to you; its justice insures its success; and, in this hope, I beg you to accept the assurances, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*  
&c.                      &c.                      &c.

First Enclosure in No. 44.

(Translation.)

*Proceedings in the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Brig "Venturoso."*

(No. 1.) CERTIFICATE. These are to certify, that I have received and taken charge of the undermentioned Papers, belonging to the Brazilian Brig "*Venturoso*," whereof Joachim Pinto de Souza is Master, in consequence of having found it necessary to detain her, for breaches of the Treaty with Portugal for the suppression of the Slave-trade, as fully set forth in my Declaration of this date, viz. 1, "Imperial Passport;" 2, "Articles of Agreement;" 3, "Sundry Documents relative to Ship's Cargo, fit-out, &c." 4, "Log-book."

C. BULLEN, Captain of His Britannick Majesty's Ship "*Maidstone*," off Badagry, 14th of March 1827.

(No. 2.) DEFENCE of Joaquim Pinto de Souza, the Master of the said Vessel, on behalf of Antonio Pedroso de Albuquerque, the Owner. Your Honours, I am under the necessity of appearing before you in person to defend this Case, not being able to obtain a Proctor to undertake it. From

the Evidence, you will see my Vessel was detained, on the 14th March last, by His Majesty's Ship "Maidstone," Commodore Bullen, during the prosecution of her lawful Voyage, from Bahia to Molembo.—My Vessel is fitted for the legal Slave-trade, and furnished with an Imperial Passport, and other Documents necessary for the same. I have been led to understand that it was detained, in consequence of my being found to the North of the Line, in violation of my Passport; but if your Honours will refer to that Document, you will perceive that my Vessel is authorized to come to the Northward of the Equator. My Passport is regular, and was supplied me by the proper Authorities in Bahia. I am therefore at a loss to know on what grounds my Vessel has been detained. By the Treaty with Portugal, signed in London 28th July 1817, your Honours will perceive, on referring to the 1st Article of the Instructions for the Commanders of the British and Portuguese Ships, that Vessels on board of which no Slaves shall be found intended for purposes of traffick, shall not be detained on any account or pretence whatever. In this Case, has any Evidence been produced to shew that a single Slave has been embarked on board my Vessel during the present Voyage; has any proof been exhibited to that effect? I contend that under this Article my Vessel is fully borne out from this illegal detention. I am not aware of any new Treaty having been entered into between my Government and the British. None had been formed when my Vessel left Bahia; I am amenable only to the Treaty above alluded to, and not to the mere Correspondence of certain Ministers. I therefore pray your Honours will be pleased to adjudge my Vessel and Cargo, as not liable to condemnation, and to grant me compensation for all losses, damages, demurrage and expences, I may have incurred since my illegal detention by Commodore Bullen.

JOAQUIM PINTO DE SOUZA.

(No. 3.) DECLARATION and PROTEST. By this publick Instrument of Declaration and Protest, be it known and made manifest, that, on the 13th day of April, in the Year of our Lord, 1827, personally came and appeared before me, W. H. Savage, Notary Publick, by Royal Authority, duly admitted, sworn, and registered in the High Court of Chancery in England, Joaquim Pinto de Souza, Master of the Brig or Vessel called the "Venturoso," belonging to the Port of Bahia, in Brazil; who did declare and say as follows: That the said Vessel, "Venturoso," being furnished with an Imperial Passport, sailed from the said Port, in the prosecution of a Voyage, for the purpose of procuring a Cargo of Slaves, on the Coast of Africa; that the said Imperial Passport did especially permit the said Vessel to touch at Places to the North of the Line, wherefore the said Brig "Venturoso," was brought to an anchor at Badagry, on the Coast of Africa, for the purpose of supplying the said Brig with fresh water, for the use of the Crew of the said Vessel, and also for the purpose of purchasing provisions for the remainder of the Voyage; that whilst so being at anchor at Badagry aforesaid, the Brig "Venturoso," was visited, seized, captured and detained, by His Majesty's Ship "Maidstone," whereof Commodore Charles Bullen, C. B. was Commander, for an alleged breach of the Treaties made for the suppression of illicit Slave-trade, although the said Brig had not any Slave or Slaves on board, nor had any been shipped on board during the Voyage, all which was fully made to appear to the said Captor; yet he, the said Commodore Charles Bullen, C. B. did order the said Brig "Venturoso," to be taken to Sierra Leone, and there proceeded against, and at which Place the said Brig did arrive, and before the Court of Mixed Commission was libled and proceeded against, and was therein condemned, as having been engaged in illicit Slave-trade, on this 13th day of April 1827, contrary to the express Articles of the Treaties between Great Britain and Portugal, which stipulate, that Vessels which have received any, and shall be found with a Slave or Slaves on board, should alone be liable to confiscation, of which facts there was full proof given, and acknowledged by the said Court in the Judgment, that there were no Slave or Slaves found or alleged to have been taken on board during the Voyage; therefore, he, the said Appearer did declare to protest, as well against the said Seizure, as against the said Condemnation. Wherefore I, the said Notary, by these presents, solemnly acknowledge the same, and in the name of the said Appearer, do make publick

and declare the same against all Persons in general concerned in the said alleged illegal Capture and Detention of the said Vessel "Venturoso." Of all which an act being required of me, I have granted the same, under my hand and Seal of Office, this 13th day of April, in the Year of our Lord 1827, at Freetown, in the Colony of Sierra Leone.—*In testimonium veritatis.*

(Signed) W. H. SAVAGE, N. P.

(No. 4. A.) SENTENCE, in the Case of the Brazilian Vessel, the "Minerva."

Before his Honour Hugh Lumley, His Britannick Majesty's Commissary Judge, and Joseph Reffell, Esq. His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, WILLIAM SMITH, Esq. Registrar.

*Monday the 13th day of April, in the Year of our Lord, 1827.*

Brig "Venturoso," Joaquim Pinto de Souza, Master.

Our Sovereign Lord the King against the Brig or Vessel called the "Venturoso," whereof Joaquim Pinto de Souza was Master, her Tackle, Apparel, and Furniture, and all and singular the Goods, Wares, and Merchandize on board the same, and therewith seized, and taken by His Majesty's Ship "Maidstone," Charles Bullen, C. B. Commander, and brought to Sierra Leone; and against all Persons in general.

Joaquim Pinto de Souza, Master of the said Brig, prayed the Claim by him given to be admitted, and the Brig and Cargo to be restored as claimed, as the sole property of Antonio Pedroso de Albuquerque, of Bahia, together with Costs, Damages and Expences.

William Henry Savage, Proctor, on behalf of the Captors, prayed the said Claim to be rejected, and the said Brig and Cargo to be condemned.

The Commissary Judge and Commissioner of Arbitration, having heard the said Claim, and proofs read, pronounced the said Brig "Venturoso," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and as such, subject and liable to confiscation, and condemned the said Brig, her Tackle, Apparel and Furniture, and the Goods, Wares, and Merchandize, laden therein, as good and lawful Prize, and as taken in such illicit traffick by His Majesty's Ship of War "Maidstone," Charles Bullen, C. B. Commander; and also that it had been proved, that, at the time of passing the said Sentence, no Slaves were on board, but that the said Brig "Venturoso," was captured off Badagry, in 6.12. Latitude North of the Equator, being irregularly licensed to touch at the Islands of St. Thomas and Princes, on the West Coast of Africa, in her Imperial Passport, marked No. 38, dated Bahia, the 4th of November 1826, which said Imperial Passport made it obligatory upon her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil, which, by the 2d Article of the Convention to the Treaty between Great Britain and Portugal, signed at London on the 28th of July 1817, is confined to the Territories of His Most Faithful Majesty The King of Portugal, to the South of the Equator, and against the true intent and meaning of the said 2d Article, and of the 1st Article to the Treaty, signed at Vienna the 22d of January, 1815.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence, made in the British and Portuguese Court of Mixed Commission, established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, the 11th day of May 1827.

(Signed) JOSEPH REFFELL, Registrar.

(No. 4. B.) PETITION, in the Case of the Brig "*Venturoso*," Joaquim Pinto de Souza, Master.

To their Honours the Judges of the said Court.—The humble Petition of the said Master, on behalf of Antonio Pedroso de Albuquerque, the Owner of the said Vessel,

*Sheweth,*

That the said Vessel was detained, on the 14th day of March last, by His Majesty's Ship "*Maidstone*," and brought into this Port for adjudication. That your Petitioner has applied to the various Proctors of your Honourable Court, for the purpose of instituting a Defence, but has been unsuccessful in obtaining one. Wherefore your Petitioner humbly prays the annexed Claim and Affidavit may be filed. And your Petitioner, as in duty bound, will ever pray.

(Signed) JOAQUIM PINTO DE SOUZA.

*April* 19, 1827.

(No. 4. C.) CLAIM, in the Case of the Brig "*Venturoso*," Joaquim Pinto de Souza, Master.

The Claim of the said Joaquim Pinto de Souza, the Master of the said Brig, a Subject of His Majesty The Emperor of the Brazils, for the said Brig, her Tackle, Apparel, and Furniture, Goods, Wares, and Merchandize laden therein, at the time of Capture thereof, by His Majesty's Ship "*Maidstone*," Commodore Charles Bullen, C. B., and brought into Sierra Leone; for the said Brig or Vessel, her Tackle, Apparel, and Furniture, and her Cargo, as the sole property of Antonio Pedroso de Albuquerque, an Inhabitant of the Brazils, and as protected by the Treaty or Convention between His Britannick Majesty and His Most Faithful Majesty the late King of Portugal, dated the 28th July 1817. And for all Costs, Charges, Losses, Damages, Demurrage, and Expences as have arisen, or may arise, by means of the Capture and Detention of the said Brig, and her Cargo, as aforesaid.

(Signed) JOAQUIM PINTO DE SOUZA.

*April*, 1827.

(No. 4. D.) AFFIDAVIT, in the Case of the Brig "*Venturoso*," Joaquim Pinto de Souza, Master.

Appeared personally the said Joaquim Pinto de Souza, the Master of the said Brig, and maketh oath: that he is a Subject of His Majesty The Emperor of the Brazils, and was Master of the said Brig, at the time of the Capture thereof by His Majesty's Ship "*Maidstone*," Commodore Charles Bullen, C. B., and that the said Brig was so captured on the 14th day of March last, in the prosecution of her Voyage from the Brazils to the Coast of Africa, and brought to Sierra Leone; and he further maketh oath, that Antonio Pedroso de Albuquerque, a Subject of His Majesty The Emperor aforesaid, was, at the time of the said Capture, and now is, the true, lawful, and sole Owner and Proprietor of the said Brig "*Venturoso*," her Tackle, Apparel, and Furniture, and the Cargo on board the same. And Deponent further maketh oath, that he verily believes the said Brig, and her lading, are protected by the Treaty or Convention between His Britannick Majesty and His Most Faithful Majesty the late King of Portugal. And Deponent further maketh oath, that, during the present Voyage of the said Brig, no Slave or Slaves have been shipped or put on board the said Brig. That the same Brig was specially permitted to be North of the Equator, where she was found when taken. And he further maketh oath, that no person or per-



BRAZIL.

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sons, other than the persons beforementioned, had any Right or title to the said Vessel, and the Tackle, Apparel, and Furniture, Goods, Wares, or Merchandize, on board the same, at the time of the Capture and Seizure thereof; and that he is duly authorized to make the Claim hereunto annexed, and that the same is a true and just Claim.

(Signed) JOAQUIM PINTO DE SOUZA.

Sworn before me, this 19th day of April 1827.

(Signed) WM. SMITH, Registrar.

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These are to certify, that the foregoing are true and correct Copies of the original Petition, Claim, and Affidavit, filed in support of the same, in the Cause therein mentioned. In faith and testimony whereof, I have hereunto set my hand and affixed the Seal of the said Court, at Free-town, in the Colony of Sierra Leone, the 18th day of May, in the Year of our Lord 1827.

(L.S.) (Signed) JOSH. REFFELL, Registrar.

(Signed) ANDRE GONSALVEZ SOUZA.  
FRANC<sup>o</sup>. JORGE MONTEIRO.

I, William Pennell, His Britannick Majesty's Consul for this Province of Bahia, do hereby certify unto all whom it doth or shall concern, that the above Signatures are of the true and proper hand-writing of Andre Gonsalvez Souza, Judge of India and Mina, and Franco. Jorge Monteiro, Secretary to the said Judge Souza.

Given under my hand and Seal of Office, at Bahia, this 12th day of September 1827.

(L.S.) (Signed) WM. PENNELL.

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Second Enclosure in No. 44.

*Compte de l'Indemnité qui est due au Propriétaire du Brick "Venturoso," injustement condamné par la Commission Mixte de Sierra Leone.*

	Reis.
Pour la valeur du Brick - -	6,000\$000
Pour celle de la Cargaison - -	38,912\$980
Pour le Fret dû - - - -	17,501\$728
	<hr/>
Reis -	62,414\$708
	<hr/>

Outre les frais de la procédure, et avec addition d'un intérêt de 5 pour Cent à l'An, sur le montant de cette Indemnité.

(Signed) LE CHEVALIER DE MATTOS.

Londres, ce 24 Novembre 1828.

(Translation.)

*Account of the Indemnity due to the Owner of the Brig "Venturoso," unjustly condemned by the Mixed Commission at Sierra Leone.*

			Reis.
For the value of the Brig	-	-	6,000\$000
For that of the Cargo	-	-	38,912\$980
For Freight due	-	-	17,501\$728
			<hr/>
	Reis	-	62,414\$708
			<hr/>

Besides the Costs of the proceedings, and interest, at the rate of 5 per Cent. per Annum, on the amount of the Indemnity.

(Signed) THE CHEVALIER DE MATTOS.

London, 24th November 1828.

## No. 45.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

Park Crescent, ce 24 Novembre 1828.

FAISANT route de Bahia à Molembo pour l'objet de la Traite de Nègres, le Brick Brésilien "*Bahia*," a été obligé de relâcher, par fortune de Mer, dans le Port d'Avé au Nord de l'Equateur; et y étant entré le 1er Avril 1827, il fût arrêté deux jours après (et sans qu'il eut effectivement des Esclaves à son bord) par le Capitaine Arthur Wakefield, Commandant du Brick de Sa Majesté Britannique le "*Conflict*." La procédure de cette injuste saisie ayant été instruite par la Commission Mixte de Sierra Leone, un Jugement condamnatore (dont je vous présenterai plus tard la Copie) fût prononcé contre le Brick capturé, sous le prétexte d'avoir été rencontré dans l'un des Ports d'Afrique au Nord de la Ligne, où le Trafic d'Esclaves est défendu aux Sujets Brésiliens par les Conventions du 22 Janvier 1815, et 28 Juillet 1817. Mais, comme ce qui constitue, d'après ces Actes, le cas de saisie des Bâtiments Négriers, et qui en justifie la condamnation, c'est l'existence d'Esclaves à leur bord, et non pas leur entrée, par relâche forcée ou volontaire, dans un Port où la Traite des Nègres leur est défendue, le Jugement rendu contre le Brick "*Bahia*," est une infraction manifeste des Conventions précitées.

De plus, Mylord, comme tout Acte émané d'une Autorité incompétente est nul et non avenu; et que la juridiction attribuée à la susdite Commission pour connaître de telles Prises a été cassée par l'Article 4me de la Convention du 23 Novembre 1826, ainsi que par l'Acte du Parlement Britannique en date du 2 Juillet 1827, qui en régla l'exécution, la Sentence prononcée par cette Commission contre le Brick en question, est un Acte évidemment injuste et invalide.

Malgré tous ces vices que je viens de signaler, l'arrêt de la Commission Mixte fût exécuté; et puisque Sa Majesté Britannique s'est engagée, par l'Article 5me de la Convention du 28 Juillet 1817, à bonifier toutes les pertes que ses Croiseurs occasionneraient aux Sujets Brésiliens, par des saisies arbitraires et illégales de leurs Bâtiments employés au Commerce d'Esclaves, mon Gouvernement réclame de celui du Roi l'indemnité qui est due au Sieur Jozé de Cerqueira Lima, Propriétaire du Brick "*Bahia*," et le montant de cette indemnité, calculé d'après les paragraphes 1, 2, 3, et 5 de l'Article 8me de la Convention sus-mentionnée, est celui de Rs. 44,918\$328 spécifié dans le Compte ci-joint, avec addition d'un intérêt de 5 pour Cent à l'An, jusqu'à l'époque de son remboursement effectif et complet.

J'espère, Mylord, que vous ferez droit à une réclamation si fondée ; et dans cette espérance, je vous prie d'agréer, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*  
&c. &c. &c.

(Translation.)

MY LORD,

*Park Crescent, November 24, 1828.*

THE Brazilian Brig "*Bahia*," while on her way from Bahia to Molembo, for the purpose of carrying on the Traffick in Slaves, was forced, from accidents at Sea, to put into the Port of Away, to the North of the Equator ; and having entered that Port, on the 1st of April 1827, was seized, 2 days afterwards (without having any Slaves actually on board), by Captain Arthur Wakefield, commanding His Britannick Majesty's Brig the "*Conflict*." The Case of this unjust Seizure having been investigated by the Mixed Commission at Sierra Leone, Sentence of Condemnation (of which I will hereafter send you a Copy) was pronounced against the captured Brig, under the pretext that she had been found in a Port of Africa, to the North of the Line, where the Trade in Slaves is prohibited to Brazilian Subjects, by the Conventions of 22d January 1815, and 28th July 1817. But as, according to those Documents, the fact which constitutes a ground for the seizure of Slave-ships, and which justifies their condemnation, is the actual finding of Slaves on board, and not the putting into a Port, either involuntarily or otherwise, where the Commerce in Slaves is prohibited, the Sentence passed against the Brig "*Bahia*" is a manifest infraction of the Conventions abovementioned.

Moreover, my Lord, as every act emanating from an incompetent Authority is null and void ; and as the jurisdiction granted to the aforesaid Commission, to take cognizance of such Captures, was abrogated by the 4th Article of the Convention of 23d November 1826, as well as by the Act of the British Parliament, dated 2d July 1827, which provided for its execution,—the Sentence pronounced by this Commission, against the Brig in question, is an act evidently unjust and invalid.

Notwithstanding all the defects which I have just pointed out to you, the Sentence of the Mixed Commission was carried into effect ; and since His Britannick Majesty has engaged, by the 5th Article of the Convention of 28th July 1817, to make good all losses which his Cruizers might occasion to Brazilian Subjects, by arbitrary and illegal seizures of their Vessels employed in the Traffick of Slaves, my Government demands from that of The King, the indemnity which is due to M. Jozé de Cerqueira Lima, Owner of the Brig "*Bahia* ;" and the amount of such Indemnity, calculated according to the 1st, 2d, 3d, and 5th Sections of the 8th Article of the Convention aforesaid, is 44,918\$328 Reis, as specified in the annexed Account, with the addition of interest, at the rate of 5 per Cent. per Annum, until the time of its actual and complete payment.

I hope, my Lord, that you will do justice to a Claim so well founded, and I beg you will accept, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*  
&c. &c. &c.

Enclosure in No. 45.

*Compte de l'Indemnité qui est due au Propriétaire du Brick Brésilien  
"Bahia," injustement condamné par la Commission Mixte de Sierra Leone.*

	Reis.
Pour la valeur du Brick - - - - -	5,580\$000
Pour celle de la Cargaison - - - - -	27,485\$880
Pour celle d'un Esclave-marin qui fût affranchi -	500\$000
Pour le frêt échu - - - - -	11,352\$000
<b>Reis -</b>	<b>44,918\$328</b>

Outre les frais de la procédure et avec addition d'un intérêt de 5 pour Cent à l'An, alloué par l'Article 8me du Règlement additionnel à la Convention du 28 Juillet 1817.

(Signed) **LE CHEV. DE MATTOS.**

*Londres, ce 24 Novembre 1828.*

(Translation.)

*Account of the Indemnity due to the Owner of the Brazilian Brig "Bahia,"  
unjustly condemned by the Mixed Commission at Sierra Leone.*

	Reis.
For the value of the Brig - - - - -	5,580\$000
For that of the Cargo - - - - -	27,485\$880
For that of a Slave-seaman who was liberated -	500\$000
For Freight due - - - - -	11,352\$000
<b>Reis -</b>	<b>44,918\$328</b>

Besides the Costs of proceeding, and with the addition of interest, at the rate of 5 per Cent. per Annum, allowed by the 8th Article of the Regulation annexed to the Convention of 28th July 1817.

(Signed) **LE CHEV. DE MATTOS.**

*London, 24th November 1828.*

No. 46.

*The Vicomte d'Itabayana to The Earl of Aberdeen.*

MY LORD,

*Park Crescent, ce 24 Novembre 1828.*

LE Navire Brésilien, la "*Minerva*," allant de Bahia à Molembo, pour y faire le trafic d'Esclaves, fut obligé d'aborder dans le Port d'Onim, pour s'y ravitailler et échanger une partie de sa cargaison contre des denrées du Pays. Rencontré dans cette rade par la Frégate de Sa Majesté Britannique la "*Bann*," commandée par le Commodore G. W. Courtenay, il y a été arrêté le 16 Janvier 1824, quoiqu'il n'eut point effectivement des Esclaves à son bord.

L'instruction de la procédure de cette prise, ayant été commencée par la Commission Mixte de Sierra Leone, lors de l'arrivée du Navire à Freetown,

fut postérieurement abandonnée par la dite Commission à la demande du Capteur, et le Bâtiment a été relâché le 17 Avril 1824, sans que l'on rendit aucun Jugement sur l'illégalité de cette saisie, et sans qu'aucune indemnité fût accordée au Propriétaire respectif, pour cette injuste détention, comme le constatent les Pièces-ci-jointes.

Ainsi que moi, vous sentirez, Mylord, que cet acte arbitraire de la Commission sus-mentionnée fut une manifeste violation de l'Article 8me. de la Convention du 28 Juillet 1817, et des Articles 6me. et 8me. du Règlement additionnel.

Les conséquences de la saisie arbitraire et de la restitution illégale du Navire en question furent, Mylord, la perte totale du Commerce entrepris, un surcroît de dépenses, et la détérioration du chargement, qui a été vendu à Bahia à un grand rabais; et comme par l'Article 5me. de la Convention précitée Sa Majesté Britannique s'est engagée à bonifier toutes les pertes que ses Croiseurs occasionneraient aux Sujets Brésiliens, par des saisies illégitimes de leurs Bâtiments destinés au Commerce d'Esclaves, mon Gouvernement réclame maintenant de celui du Roi l'indemnité qui est due aux Sieurs João Victo. Moreira et Manoel Joze de Magalhaens, Propriétaires de la "*Minerva*;" et dont le montant, calculé d'après les Paragraphes 1, 2, 4, et 6, de la seconde partie de l'Article 8me. du Règlement annexé à la Convention ci-dessus mentionnée, est de Reis 36,662§ 918, spécifié dans le Compte ci-joint, avec addition de l'intérêt de 5 pour Cent à l'An, jusqu'à l'époque où le remboursement intégral en sera effectué.

En vous adressant, Mylord, cette juste réclamation, je me flatte que vous vous empresserez de lui faire droit, et dans cette attente, je vous prie d'agréer les assurances, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

Son Excellence Lord Aberdeen,

&c. &c. &c.

(Translation.)

MY LORD,

Park Crescent, 24th November 1828.

THE Brazilian Vessel the "*Minerva*," on her passage from Bahia to Moembo, for the purpose of trafficking in Slaves, was obliged to put into the Port of Onim, for the purpose of victualling and exchanging a part of her cargo for the commodities of the Country. Having been found in this Roadsted by His Britannick Majesty's Frigate the "*Bunn*," commanded by Commodore G. W. Courtenay, she was there seized on the 16th of January 1824, although she had not any Slaves actually on board.

The proceedings in this Case of Seizure after having been commenced by the Mixed Commission at Sierra Leone, on the arrival of the Vessel at Freetown, were subsequently abandoned by the said Commission, at the request of the Captor, and the Vessel was released on the 17th of April 1824, without any Judgment having been passed on the illegality of her Capture, and without any indemnification having been granted to the Owner for this unjust detention, as is proved by the annexed Papers.

Your Lordship will feel, like myself, that this arbitrary act of the aforesaid Commission, was a manifest violation of the 8th Article of the Convention of the 28th of July 1817, and of the 6th and 8th Articles of the Regulation annexed thereto.

The consequences of the arbitrary Seizure and illegal restitution of the Vessel in question, were, my Lord, the total loss of her intended traffick, an increase of expences, and the deterioration of her cargo, which was sold at Bahia at a heavy loss; and as, by the 5th Article of the before-mentioned Treaty, His Britannick Majesty has engaged to make good all losses occasioned by his Cruizers to Brazilian Subjects, by illegal seizures of their Vessels employed in the Traffick of Slaves, my Government now demands from that of The King, the indemnity which is due to M. João Victo. Moreira, and Manoel Jozé de Magalhaens, Owners of the "*Minerva*;" the

amount of which, according to the 1st, 2d, 4th, and 6th Sections of the second part of the 8th Article of the Regulation annexed to the Convention abovementioned, is, 36,662\$918 Reis, as specified in the accompanying Account, with the addition of interest at the rate of 5 per Cent. per Annum to the date of the entire payment thereof.

In addressing to your Lordship this just demand, I flatter myself that you will hasten to do justice to it, and in this expectation I beg you to accept, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency Lord Aberdeen,*  
&c. &c. &c.

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First Enclosure in No. 46.

*Proceedings of the Mixed Commission at Sierra Leone, in the Case of the Brazilian Vessel, the "Minerva."*

**DECLARATION.**—I hereby declare, that the Portuguese Ship "*Minerva*," of Bahia (under Colours, called by the Crew Brazilian, and furnished with Papers purporting to be of the same Country, but which are unknown to me as any National Flag or Papers,) was boarded and temporarily detained by His Majesty's Ship "*Bann*," under my command, on the 30th of January 1824, for further investigation into the very suspicious circumstances under which I found her; she being evidently and without a doubt engaged in the Slave-trade at Lagos, in the Bight of Benin, Latitude 6. 26. 30. North, Longitude 3. 46. East, furnished with a Passport to carry 675 Slaves from Molembó, by the Authorities of Bahia, acting under the Individual, who styles himself Emperor of Brazil; but which Individual has never been to my knowledge recognized as such by His Majesty or Government, consequently is not qualified to grant Passports according to the provision of the 4th Article of the Treaty of the 22d of January 1815, which expressly provides, that every Portuguese Vessel must be furnished with a Royal Passport, and further provides by whom such Passport is to be signed, at the several Ports or Places from which Vessels employed in the legal Traffick in Slaves shall be fitted out.

I further declare, that the Passport in question is informal, in several other respects, which will be seen in the proper Court on inspection. I will merely state it's being sealed with Arms called the Imperial Arms of Brazil, instead of the Royal Arms of Portugal; the Crew calling themselves Brazilians, are certainly nothing more nor less, than the rebellious Subjects of His Faithful Majesty.

I further declare, that, in consequence of the Master of the "*Minerva*," being on Shore at Lagos, as well as the Masters of 2 other Portuguese Vessels, detained at the same time and place, I despatched the 1st Lieutenant (after waiting in vain for more than 24 hours, in expectation of seeing them) to communicate with the above Masters, and request that they would return on board, in order that I might have a better opportunity of examining the business, and also for affording them an opportunity of explaining or clearing up what I considered sufficient grounds for the detention of their Vessels; that soon after the 1st Lieutenant's arrival in the River Lagos, and near the factory where the Slaves purchased by the "*Minerva*" for a Cargo were deposited, a piratical, wanton, and furious attack was made upon the Boats from the Portuguese and Natives, infuriated with the aquadente distributed among them; that the 1st Lieutenant (Mr. Amsinck) after an engagement of considerable time, finding his men were very fast dropping, and having already lost 1 killed, the 2d Lieutenant and 6 others wounded, without any apparent chance of success against a force so much superior, returned on board.

I further declare, that, in consequence of the informality and total invalidity of the Passport, the Vessel being fitted in all respects for the reception of Slaves, and being nominally destined for Molembó, but manifestly intended to complete her Cargo at Lagos, I have sent her to Sierra Leone for adjudication in the Court of Mixed Commission.

I have not had it in my power to furnish the Master with the Certificate of the seizure of his Papers, as required by Article 8, in consequence of his non-appearance.

(Signed) G. W. COURTENAY.  
Commander.

*His Majesty's Ship "Bann" off the River Lagos,  
5th February 1824.*

PETITION, in the Case of the Portuguese Ship "*Minerva*."

The humble Petition of C. Austin, on the part and behalf of the Captain, Officers and Crew, of His Majesty's Ship "Bann,"

*Sheweth,*

That the Papers of the said Ship "*Minerva*," having been filed in your honourable Court, your Petitioner humbly prays,

That the usual Monition may issue, and your Petitioner, as in duty bound, will ever pray.

(Signed) C. AUSTIN, Proctor for Captor.

*Freetown, March 24, 1824.*

PETITION, in the Case of the Portuguese Ship "*Minerva*."

The humble Petition of Christopher Austin, on the part and behalf of the Captain, Officers, and Ship's Company of His Majesty's Ship "Bann,"

*Sheweth,*

That, on perusing the Examinations taken in this Case, it does not appear that any Slave or Slaves were actually on board at the time of Capture, or had been on board during the Voyage in which she was captured, although the Vessel was undoubtedly engaged in the illicit traffick; and as no Claim has been made on the part of the Owners of such Vessel, your Petitioner humbly prays,

That he may be allowed to withdraw the Papers of said Vessel from before your Honourable Court, in order that the same may be returned to her; and your Petitioner, as in duty bound, will ever pray.

(Signed) C. AUSTIN, Proctor for Captor.

*Freetown, April 17, 1824.*

Second Enclosure in No. 46.

*Compte de l'Indemnité qui est due aux Propriétaires du Navire Brésilien, la "Minerva," (de 270 Tonneaux) relâché à Sierra Leone, sans la formalité d'un Jugement préalable, et sans aucun dédommagement pour son injuste détention.*

Pour 92 jours de Starie à raison de £14 par jour, c'est à dire £1288, ou au pair de 67½	-	-	-	-	Reis.
Pour la valeur de la Cargaison	-	-	-	25,017	5830
Avec déduction du produit net de l'enchère qui en fut faite à Bahia	-	-	-	839	5460
					24,178
Pour le montant des Gages de l'Equipage	-	-	-	-	7,905
					36,662
					918

Avec addition d'un intérêt de 5 pour Cent sur la valeur de la Cargaison, et d'un intérêt égal sur le montant de ce Compte.

(Signed) LE CHEV. DE MATTOS.

*Londres, ce 24 Novembre 1828.*

(Translation.)

*Account of the Indemnity due to the Owners of the Brazilian Vessel "Minerva," (of 270 Tons) released at Sierra Leone, without the formality of a previous Judgment, and without any Indemnification for her illegal detention.*

For 92 days' demurrage, at the rate of £14 per day, that is to say, £1288, or at the par of 67½	-	-	-	-	Reis 4,579,§555
For the value of the Cargo	-	-	-	25,017§830	
Deducting the net produce of its sale by auction at Bahia	-	-	-	-	839,§460
					<hr/>
					24,178§363
For the amount of the Wages of the Crew	-	-	-	-	7,905§000
					<hr/>
					Reis 36,662§918

With the addition of interest, at the rate of 5 per Cent. on the value of the Cargo, and of an equal interest on the amount of this Account.

(Signed) LE CHEV. DE MATTOS.

London, 24th November, 1828.

## No. 47.

*The Vicomte d'Itabayana to The Earl of Aberdeen.*

MY LORD,

Park Crescent, ce 24 Novembre, 1828.

AYANT fait voile de Bahia à la destination du Port de Molembó, pour y faire le Commerce d'Esclaves, le Brick Brésilien "*Trajano*," est entré, par détresse, dans le Port d'Ajuda, au Nord de l'Equateur, et il y était à l'ancre sous la protection du Fort Portugais, quand le Commodore Charles Bullen, Commandant de la Frégate Anglaise la "*Maidstone*," l'a arrêté le 13 Mars 1827. S'emparant de ce Brick, le Commodore Bullen a violé non seulement l'Article 5me de la Convention du 28 Juillet 1817, qui défend la détention de tout Bâtiment Négrier qui n'aurait point effectivement des Esclaves à son bord, mais aussi l'Article 2me des Instructions additionnelles que je transcris ici en entier;—"No Merchantman or Slave-ship can, on any account or pretence whatever, be visited or detained, whilst in the Port or Roadsted belonging to either of the two High Contracting Powers, or within cannon-shot of the Batteries on Shore. But in case suspicious Vessels should be found so circumstanced, proper Representations may be addressed to the Authorities of the Country, requesting them to take effectual measures for preventing such abuses." Malgré l'évidente injustice de la saisie du Brick "*Trajano*," la Commission Mixte de Sierra Leone a prononcé contre lui, le 30 Avril 1827, un Jugement Condamnatoire (dont Copie est ci-jointe) sous l'étrange prétexte d'avoir été rencontré dans un Port au Nord de l'Equinoxiale, quand il est certain que les Conventions du 22 Janvier 1815, et 28 Juillet 1817, ne défendent point aux Bâtiments Brésiliens d'entrer dans les Ports d'Afrique au Nord de la Ligne, pour s'y ravitailler ou prendre des denrées du Pays.

Cette décision de la Commission sus-mentionnée, est non seulement contraire à la lettre et à l'esprit des Actes précités, mais aussi nulle et invalide, parcequ'elle a été prononcée par une Autorité, qui, par suite de l'Article 4me de la Convention du 23 Novembre 1826, et de l'Acte du Parlement Britannique, en date du 2 Juillet 1827, qui en a réglé l'exécution, est devenue incompétente pour juger de telles Prises. L'injustice de cette Capture étant de la dernière évidence et Sa Majesté Britannique ayant pris, par l'Article 5me de la Convention du 28 Juillet 1817, l'engagement positif et formel de bonifier toutes les pertes que les Croiseurs occasionneraient aux Sujets Brésiliens,



par des saisies arbitraires et illégales de leurs Bâtimens destinés à faire le Trafic d'Esclaves ; mon Gouvernement réclame de celui du Roi l'accomplissement de cette obligation envers le Sieur Jozé Alvez da Cruz Rios, Propriétaire du Brick, "*Trajano*;" et le montant de l'indemnité qui doit lui être accordée d'après les paragraphes 1er, 2de, 3me, et 5me, de l'Article 8me du Règlement annexé à la susdite Convention, est celui de Reis 49,773§120, spécifié dans le Compte ci-joint, avec addition d'un intérêt de 5 pour Cent. à l'An, jusqu'à l'époque où le payement en sera effectué.

En vous adressant cette réclamation, je n'ai aucune doute, Mylord, sur le favorable accueil qu'elle trouvera de la part du Ministère de Sa Majesté Britannique, dont je connais la droiture et la fidélité.

Je me borne donc à vous prier d'agréer, &c.

(Signed) LE VICOMTE D'ITABAYANA.

Son Excellence Lord Aberdeen,

&c. &c. &c.

(Translation.)

MY LORD,

Park Crescent, November 24, 1828.

THE Brazilian Brig "*Trajano*," having sailed from Bahia, for the Port of Molembo, for the purpose of engaging in the Slave-trade, was driven by distress into the Port of Ajuda, to the North of the Equator ; and was lying there at anchor, under the protection of the Portuguese Fort, when Commodore Charles Bullen, commanding the English Frigate the "*Maidstone*," seized her on the 13th March 1827. By the capture of this Brig, Commodore Bullen violated not only the 5th Article of the Convention of 28th July 1817, which forbids the detention of any Slave-vessel which shall not have Slaves actually on board, but also the 2d Article of the Instructions annexed thereto, which I here transcribe word for word ;—"No Merchant-man or Slave-ship, can on any account or pretence whatever, be visited or detained, whilst in the Port or Roadsted belonging to either of the two High Contracting Powers, or within cannon-shot of the Batteries on Shore. But in case suspicious Vessels should be found so circumstanced, proper Representations may be addressed to the Authorities of the Country, requesting them to take effectual measures for preventing such abuses." Notwithstanding the evident injustice of the seizure of the Brig "*Trajano*," the Mixed Commission at Sierra Leone pronounced Sentence of Condemnation against her on the 30th April 1827, (a Copy of which is enclosed,) on the extraordinary pretext, that she had been found in a Port to the North of the Line ; while it is certain, that the Conventions of 22d January 1815, and 28th July 1817, do not forbid Brazilian Vessels to enter African Ports to the North of the Line, for the purpose of laying in provisions, or articles the produce of the Country.

This decision of the above-mentioned Commission is not only contrary to the letter and to the spirit of the Acts above mentioned, but is also null and void, because it was pronounced by an Authority, which, in consequence of the 4th Article of the Convention of 23d November 1826, and of the Act of the British Parliament, dated the 2d July 1827, which provided for its execution, is rendered incompetent to take cognizance of such Seizures. The injustice of this Capture being perfectly apparent, and His Britannick Majesty having positively and formally engaged, by the 5th Article of the Convention of 28th July 1817, to make good all losses which his Cruizers might occasion to Brazilian Subjects, by arbitrary and illegal seizures of their Vessels engaged in the Traffick of Slaves ; my Government claims from that of The King the fulfilment of this Engagement in favour of M. Jozé Alvez da Cruz Rios, Owner of the Brig "*Trajano*;" and the amount of the indemnity, which should be granted to him, in conformity with the 1st, 2d, 3d and 5th Sections of Article 8 of the Regulation annexed to the abovementioned Convention, is 49,773§120

Reis, as specified in the accompanying Account, with the addition of interest at the rate of 5 per Cent. per Annum, until the period when that payment shall take place.

In addressing this Claim to your Lordship, I have no doubt of its favourable reception on the part of the Government of His Britannick Majesty, with whose integrity and good faith I am well acquainted.

I confine myself, therefore, to beg that you will accept, &c.

(Signed) LE VICOMTE D'TABAYANA.

*His Excellency The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

First Enclosure in No. 47.

*Sentence of the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Brig "Trajano."*

British and Portuguese Court of Mixed Commission at Sierra Leone.

Before His Honour Hugh Lumley, His Britannick Majesty's Commissary Judge, and Joseph Reffell, Esq. His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, WILLIAM SMITH, Esq., Registrar.

*Monday the 30th day of April, in the Year of our Lord, 1827.*

Brig "*Trajano*," Joze da Silva Rios, Master.

Our Sovereign Lord The King against the Brig or Vessel called the "*Trajano*," whereof Joze da Silva Rios was Master, her Tackle, Apparel, and Furniture, and all and singular the Goods, Wares, and Merchandize, on board the same, and therewith seized and taken by His Majesty's Ship "*Maidstone*," Charles Bullen, C. B., Commander, and brought to Sierra Leone, and against all Persons in general:—

Joze da Silva Rios, Master of the said Brig, prayed the Claim by him given, to be admitted, and the Brig and Cargo to be restored as claimed, as the sole property of Joze Alves da Cruz Rios, of Bahia, together with Costs, Damages, and Expences.

John Samo, Proctor on behalf of the Captors, prayed the said Claim to be rejected, and the said Brig and Cargo to be condemned.

The Commissary Judge, and Commissioner of Arbitration, having heard the said Claim, and proofs read, pronounced the said Brig "*Trajano*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and, as such, subject and liable to confiscation; and condemned the said Brig, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as good and lawful Prize, and as taken in such illicit traffick by His Majesty's Ship-of-War "*Maidstone*," Charles Bullen, C. B. Commander, and also that it had been proved, that, at the time of passing the said Sentence, no Slaves were on board, but that the said Brig "*Trajano*," was captured off Whydah, in the Bight of Benin, in 6. 14. Latitude, North of the Equator, in direct opposition to her Imperial Passport, marked No. 2, dated Bahia, 24th January 1827, which said Imperial Passport made it obligatory upon her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil, which, by the 2d Article of the Convention to the

Treaty between Great Britain and Portugal, signed at London, the 28th of July 1817, is confined to the Territories of His Most Faithful Majesty, to the South of the Equator, and against the true intent and meaning of the said 2d Article, and of the 1st Article to the Treaty, signed at Vienna, January 22d 1815.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence made in the British and Portuguese Court of Mixed Commission established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, the 11th day of May, in the Year of our Lord, 1827.

(L.S.) (Signed) JOSH. REFFELL, Registrar.

DECLARATION and PROTEST. By this Publick Instrument of Declaration and Protest, Be it known and made manifest, That on the 13th of April, in the Year of Our Lord 1827, personally came and appeared before me, William Henry Savage, Notary Publick by Royal Authority, duly admitted, sworn, and registered in the High Court of Chancery in England, Joze da Silva Rios, Master of the Brazilian Brigantine "*Trajano*," who did declare and say as follows: That in the prosecution of a legal Voyage from Bahia, in the Brazils, to the Coast of Africa, the said Brigantine "*Trajano*," left the Harbour of Bahia, on the 27th day of January last, furnished with an Imperial Passport to Trade in Slaves on the Coasts of Molembo and Cabinda; that on the said Voyage, by reason of the winds and currents, and the want of fresh water, by reason that all the water for Ship's use had been carried on deck, was nearly expended, so that each man on board the said Vessel was reduced to the allowance of 1 bottle for every 24 hours, the said Brigantine having also experienced several heavy tornadoes, which had retarded her progress to the South, he, the said Appearer, did bring the said Brigantine "*Trajano*" unto anchor on the Coast of Africa, under the cannon of the Portuguese Fort St. Juan, in the Native Kingdom of Whydah, and did there supply the said Vessel with water, and inasmuch as there were a great number of water-casks under hatches filled with salt water, this Appearer did cause the same to be emptied and refilled with fresh water; that in the prosecution of this duty, on the 13th of March last, the said Brigantine "*Trajano*" was seized, captured and detained, by His Britannick Majesty's Ship "*Maidstone*," whereof Commodore Charles Bullen, C.B. was the Commander, and from under the guns of the said Fort, on which was displayed the Flag of Portugal, taken to Sierra Leone for adjudication, although the said Captor did not find any Slave or Slaves on board, nor were any taken on board during the Voyage, nor had bulk been broken, nor done any thing further than supplying herself with fresh water. That the said Brigantine or Vessel "*Trajano*," has been proceeded against in the Court of Mixed Commission, and although the various facts before alleged have been duly proved, yet the English Judges, who alone compose the said Court, did think fit to condemn the said Brigantine "*Trajano*," and Cargo, as lawful Prize, for being engaged in illicit Slave-trade.

Therefore he, the said Appearer, did declare and protest, as by these presents he does most solemnly protest, as well against the said illegal Capture, as also the subsequent condemnation, as being contrary to the Treaties and Laws of Nations, and more especially contrary to the Treaties made with Great Britain by Portugal, relative to the Slave-trade.

Wherefore I, the said Notary, at the request of the said Appearer, have entered this Protest, and in his name, and for all concerned, protested against all persons in general, concerned in the said illegal capture and detention of the said Brigantine or Vessel "*Trajano*."

Of all which an Act being of me, the said Notary, required, I have therefore granted the same, under my hand and Seal of Office, this 13th day of April, 1827.

In testimonium veritatis.

(Signed) W. H. SAVAGE, N. P.

(L.S.)

(Translation.)

I, Don André Gonsalvez Souza, Knight of the Order of Christ, &c. in virtue of the Appointment which I hold, do make known, that I have signed this Paper, to certify that the preceding Signatures are those of the persons declared.

August 9, 1827. (Signed) **ANDRE GONSALVEZ SOUZA.**  
**J. FRANÇO JORGE MONTEIRO, Sec.**

I, William Pennell, His Britannick Majesty's Consul for this Province of Bahia, do hereby certify, unto all whom it doth or shall concern, that the above Signatures are of the true and proper hand-writing of André Gonsalvez Souza, Judge of India and Mina, and Francisco Jorge Monteiro, Secretary to the said Judge Souza.

Given under my hand and Seal of Office, at Bahia,  
 this 12th day of September, 1827.

(Signed) **WM. PENNELL.**

(L.S.)

Second Enclosure in No. 47.

*Compte de l'Indemnité qui est due au Propriétaire du Brick Brésilien "Trajano," injustement condamné par la Commission Mixte de Sierra Leone.*

	Reis.
Pour la valeur du Bâtiment - -	10,500\$000
Pour celle de la Cargaison - -	29,826\$840
Pour celle de 5 Esclaves Marins qui furent affranchis - - - - -	2,500\$000
Pour le Frêt dû - - - - -	6,946\$280
	<u>Reis 49,773\$120.</u>

Outre les Frais de la Procédure, et l'Intérêt de 5 pour Cent alloué par l'Article 8<sup>me</sup> du Règlement additionnel à la Convention du 28 Juillet 1817.

(Signed) **LE CHEVALIER DE MATTOS.**

*Londres, ce 24 Novembre 1828.*

(Translation.)

*Account of the Indemnity due to the Owner of the Brazilian Brig "Trajano," unjustly condemned by the Mixed Commission at Sierra Leone.*

	Reis.
For the Value of the Vessel - -	10,500\$000
For that of the Cargo - - -	29,826\$840
For that of 5 Slave-sailors who were libe- rated - - - - -	2,500\$000
For Freight due - - - - -	6,946\$280
	<u>Reis 49,773\$120</u>

Besides the Costs of Proceeding, and Interest, at the rate of 5 per Cent. allowed by the 8th Article of the Regulation annexed to the Convention of the 28th of July 1817.

(Signed) **LE CHEVALIER DE MATTOS.**

*London, November 24, 1828.*

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 24 Novembre, 1828.*

LE Bâtiment de Guerre de Sa Majesté Britannique, le "*North Star*," commandé par le Capitaine Septimius Arabin, a capturé le 6 Janvier 1827, le Navire Brésilien "*l'Eclipse*," qui, étant parti de Bahia pour faire le Commerce d'Esclaves au Port de Molembo, au Sud de l'Equinoxiale, étant entrée par détresse, au Port d'Ajuda, dans lequel le Capteur s'en est emparé, en contravention manifeste à l'Article 6<sup>me</sup> de la Convention du 28 Juillet 1817, et au 1er des Instructions Additionnelles, qui défendent très positivement la saisie de tout Bâtiment, qui n'auroit point effectivement des Esclaves à bord.

Amené à Sierra Leone, "*l'Eclipse*" y a été condamné par la Commission Mixte de cette Colonie, sous le prétexte d'avoir contrevenu au Passeport dont il étoit muni, comme le constate la Copie ci-jointe du Jugement, rendu à Freetown le 16 Mai 1827.

L'injustice et la nullité de cette Décision sont de la dernière évidence, Mylord; elle est injuste, car, ce qui constitue le cas de saisie, et justifie la condamnation d'un Bâtiment-négrier, c'est la circonstance d'avoir des Esclaves à son bord, pris dans les Ports défendus, et non pas la relâche volontaire ou forcée, comme a été celle de "*l'Eclipse*," dans l'un de ces Ports. Elle est nulle et invalide, parceque la juridiction qu'avoit la susdite Commission Mixte, pour prononcer sur la validité ou l'invalidité de telles Prises, a été formellement révoquée, et par l'Article 4<sup>me</sup> de la Convention faite entre le Brésil et l'Angleterre le 23 Novembre 1826, et par l'Acte du Parlement Britannique, en date du 2 Juillet 1827, qui en a sanctionné l'exécution.

Or, comme par l'Article 5<sup>me</sup> de la Convention du 28 Juillet 1817, Sa Majesté Britannique s'est engagée à bonifier toutes les pertes occasionnées par les saisies arbitraires et illégales, que ses Croiseurs auroient faites des Bâtiments Brésiliens, employés au Commerce d'Esclaves, mon Gouvernement réclame de celui du Roi l'indemnité qui est due au Sieur Antonio de Padua da Cunha Pimentel, Propriétaire du Navire "*l'Eclipse*;" et la somme qui, aux termes des paragraphes 1, 2, 3, et 5<sup>me</sup> de l'Article 8<sup>me</sup> du Règlement additionnel à la Convention précitée, doit lui être adjugée, est celle de Reis 39,951 § 100, spécifiée dans le Compte ci-joint, et accrue de l'Intérêt de 5 pour Cent à l'An, jusqu'à l'époque où le payement en sera effectué.

Une aussi juste réclamation ne pouvant qu'être favorablement accueillie par le Ministère de Sa Majesté Britannique, je terminerai cette Note en vous priant d'agréer, &c.

(Signé)

LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*

&c.

&c.

&c.

(Translation.)

MY LORD,

*Park Crescent, November 24, 1828.*

HIS Britannick Majesty's Ship of War the "*North Star*," commanded by Captain Septimius Arabin, captured on the 6th of January 1827, the Brazilian Vessel "*Eclipse*," which, having left Bahia for the purpose of trading in Slaves at the Port of Molembo, to the South of the Equator, was driven, by distress, into the Port of Ajuda, where she was seized by the Captor, in manifest contravention of the 6th Article of the Convention of the 28th of July 1817, and of the 1st of the Instructions annexed thereto, which forbid, most positively, the seizure of any Vessel which shall not have Slaves actually on board.

The "*Eclipse*" was conducted to Sierra Leone, and was there condemned by the Mixed Commission of that Colony, under the pretext of having transgressed the Passport with which she was furnished, as is proved by the accompanying Copy of the Sentence, passed at Freetown on the 16th of May 1827.

The injustice and the nullity of this decision are perfectly apparent, my Lord: it is unjust, because the fact which constitutes the case of seizure, and justifies the condemnation of a Slave-vessel, is the circumstance of the having Slaves on board, taken in prohibited Ports, and not the putting into one of those Ports voluntarily or otherwise, as was the case with the "*Eclipse*." It is null and void, because the jurisdiction, which the abovementioned Mixed Commission possessed, to pronounce upon the validity or invalidity of such Prizes, was formally revoked by the 4th Article of the Convention between Brazil and England, signed on the 23d of November 1826, as well as by the Act of the British Parliament, dated July 2, 1827, which provided for its execution.

And as, by the 5th Article of the Convention of the 28th of July, 1817, His Britannick Majesty has engaged to make good all losses which his Cruizers might occasion, by the arbitrary and illegal seizure of Brazilian Vessels engaged in the Traffick of Slaves, my Government demands from that of The King the indemnity which is due to M. Antonio de Padua da Cunha Pimentel, Owner of the Vessel "*Eclipse*;" and the sum which, according to the 1st, 2d, 3d, and 5th Sections of the 8th Article of the Regulation annexed to the abovementioned Convention, ought to be awarded to him, amounts to 39,951\$100 Reis, as is specified in the accompanying Account, with the addition of Interest at the rate of 5 per Cent. per Annum, to the time when payment shall be effected.

So just a demand cannot but be favourably received by the Government of His Britannick Majesty; I shall therefore conclude this Note by requesting you to accept, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen.*  
 &c.                      &c.                      &c.

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First Enclosure in No. 48.

*Sentence, &c. of the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Vessel "Eclipse."*

**British and Portuguese Court of Mixed Commission, Sierra Leone.**

Before His Excellency Sir Neil Campbell, Knight, His Britannick Majesty's Commissary Judge, and Joseph Reffell, Esq. His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

**PRESENT, WILLIAM SMITH, Esq., Registrar.**

*Friday, March 16th, in the Year of our Lord, 1827.*

**Schooner "*Eclipse*," Joao Antonio de Faria, Master.**

Our Sovereign Lord the King, against the Schooner or Vessel called the "*Eclipse*," whereof Joao Antonio de Faria, was Master, her Tackle, Apparel, and Furniture, and all and singular the Goods, Wares, and Merchandize on board the same, and therewith seized and taken by His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander, and brought to Sierra Leone, and against all Persons in general.

William Henry Savage, Proctor, on behalf of the Claimants, prayed he Claim by him given, to be admitted, and the said Schooner and Cargo to be restored, as claimed, with Costs, Damages, and Expences.

John Dean Lake, Proctor, on behalf of the Captors, prayed the said Claim to be rejected, and the said Schooner and Cargo to be condemned.

The said Commissary Judge and Commissioner of Arbitration, having heard the said Claim, and proofs read, pronounced the said Schooner "*Eclipse*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and, as such, subject and liable to confiscation, and condemned the said Schooner, her Tackle, Apparel, and

Furniture, and the Goods, Wares, and Merchandize, laden therein, as good and lawful Prize, and as taken in such illicit traffick by His Majesty's Ship of War "North Star," Septimius Arabin, Esq. Commander; and also that it had been proved, that, at the time of passing the said Sentence, no Slaves were on board, but that the said Schooner was captured off Whydah, in the Bight of Benin, in Latitude, 6. 26. North of the Equator; and Longitude, 2. 5. East of the Meridian of London, being irregularly licensed to touch at the Islands of St. Thomas and Princes, on the West Coast of Africa, in her Imperial Passport, marked No. 25, dated Bahia, September 2d 1826, in direct contradiction to that part of the said Passport, which made it obligatory on her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of Portugal, Algarves, and Brazil, and against the true intent and meaning of the 2d Article of the Additional Convention to the Treaty with Portugal, of the 22d of January 1815, signed at London, July 28, 1817.

These are to certify, that the foregoing is a just and true Copy of the original Decree, or Sentence, made in the British and Portuguese Court of Mixed Commission established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, the 30th of March, in the Year of our Lord, 1827.

(L. s.)

(Signed)

WILLIAM SMITH, Registrar.

PROTEST. By this Publick Instrument of Protest, Be it known and made manifest, That on the 27th of March, in the Year of our Lord, 1827, personally came before me, William Henry Savage, Notary Publick in and for the Colony of Sierra Leone, by authority of Parliament, duly admitted, sworn, and registered in the High Court of Chancery of Great Britain, Joao Antonio de Faria, Master of the Brazilian Schooner or Vessel, called the "Eclipse," of the burthen of 120 tons, or thereabouts, who did declare and say, That he sailed from Bahia, in the Brazils, on the 5th day of September last, bound to Molembo, on the Coast of Africa, with an Imperial Passport, further permitting the said Schooner or Vessel to call at St. Thomas and Princes Islands, to the North of the Equator; that while at anchor on the Coast of Africa, the said Schooner was seized, detained, and taken charge of by His Britannick Majesty's Ship of War, "North Star," Septimius Arabin, Esq. Commander, for an alleged breach of the Treaties subsisting between Great Britain and Portugal. And this Appearer solemnly declares, that no Slave or Slaves had been taken, received, or kept on board the said Schooner during the present Voyage, upon which capture, seizure, and detention, he did address his Protest to the Commander aforesaid, and the same was duly received, and by the said Commander acknowledged; that the said Schooner or Vessel, called the "Eclipse," has further been brought to Sierra Leone, and tried before the Court of Mixed Commission, and there condemned, although this Appearer hath been enabled to make due proof, that there was not any Native of Africa kept, treated, received, or confined on board the said Schooner or Vessel in slavery, during the present and said Voyage; that the said Court of Mixed Commission was composed of the Governor of the said Colony and his Secretary; and that there was not any one therein sitting on behalf of the Crown of Portugal, Brazil, or Algarves; that the said Appearer desires me, the said Notary, to protest against the said seizure and detention, and also further against the condemnation of the said Vessel, her Cargo and Materials; wherefore I, the said Notary, do hereby solemnly protest against the said capture and seizure, by His Britannick Majesty's Ship "North Star," Septimius Arabin, Esq. Commander, and against the said Commander, his Officers and Crew, and also against the Decision of the said Court of Mixed Commission, inasmuch as, by the Treaties existing, and which ought alone to

govern the decisions in this Case, no Portuguese Merchantman can be detained or condemned, on any pretence, not having Slaves actually on board, or not having had a Slave or Slaves on board during the Voyage. And therefore I do enter, make, and promulge the said Protest in behalf of him, the said Joao Antonio de Faria, and of the Owner or Owners, or of all other Person or Persons who have any right, title, or interest in the said Schooner or Vessel called the "Eclipse," against the said Captor, and against the Decision of the said Court, for all Costs, Damages, Expences, Demurrage and Charges, that have arisen, or may arise, to the said Appearer, and others interested therein, by reason of the aforesaid unlawful seizure and condemnation; and whereupon, further, I, the said Notary, being also Proctor for the said Claimant, for the purpose of making or enabling him, the said Joao Antonio de Faria, to make an appeal to draw the attention of the two Governments to the said Decision, did demand and receive from the said Court of Mixed Commission, a duly and authenticated Copy, under Seal, of the Claim and Affidavit, filed by him, the said Master, in this behalf, and of the Judgment and Decree pronounced by the said Court in the Cause, of all which an Act Notarial having been by him, the said Joao Antonio de Faria, demanded, I have granted the same, under my hand and Seal, Notarial, at Freetown, in the Colony of Sierra Leone, on the Western Coast of Africa, the Day and Year first abovementioned.

In testimonium veritatis.

(L. s.)

(Signed)

W. H. SAVAGE, N.P.

JOAO ANTONIO DE FARIA.

(Translation.)

I, Don André Gonsalvez Souza, Knight of the Order of Christ, &c. do make known, that, by virtue of my Office, I have signed this Paper, to certify that the preceding Signature is that of the Person declared.

(Signed)

ANDRE GONSALVEZ SOUZA.

FRANCISCO JORGE MONTEIRO, Secretary.

August 9th, 1827.

I, William Pennell, His Britannick Majesty's Consul for this Province of Bahia, do hereby certify, unto all whom it doth or shall concern, that the above Signatures are of the true and proper hand-writing of André Gonsalvez Souza, Judge of India and Mina, and of Francisco George Monteiro, Secretary to the said Judge Souza.

Given under my hand and Seal of Office, at Bahia, this 15th of October, 1827.

(L. s.)

(Signed)

WM. PENNELL.

Second Enclosure in No. 48.

*Compte de l'Indemnité qui est due au Propriétaire du Bâtiment Brésilien "Eclipse," injustement condamné par la Commission Mixte de Sierra Leone.*

	Reis.
Pour la valeur du Bâtiment	8,500\$000
Pour celle de la Cargaison	24,139\$500
Pour celle de 3 Esclaves, Marins, qui furent affranchis	1,500\$000
Pour le Frêt dû	5,811\$600

Reis 39,951\$100

Outre les frais de la procédure, et l'intérêt de 5 pour Cent, alloué par l'Article 8me du Règlement additionnel à la Convention du 28 Juillet 1817.

(Signed)

LE CHEV. DE MATTOS.

Londres, ce 24 Novembre 1828.



(Translation.)

*Account of the Indemnity due to the Owner of the Brazilian Vessel "Eclipse," unjustly condemned by the Mixed Commission at Sierra Leone.*

	Reis.
For the value of the Vessel - - - -	8,500\$000
For that of the Cargo - - - -	24,139\$500
For that of 3 Slaves, Sailors, who were liberated	1,500\$000
For Freight due - - - -	5,811\$600
	<hr/>
Reis -	39,951\$100
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Besides the Costs of Proceeding, and Interest, at the rate of 5 per Cent., allowed by the 8th Article of the Regulation annexed to the Convention of the 28th July 1817.

(Signed) THE CHEV. DE MATTOS.

London, 24th November, 1828.

No. 49.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

Park Crescent, ce 24 Novembre 1828.

DESTINE à faire, au Port d'Angola, le commerce de denrées et non pas celui d'Esclaves, le Yacht Brésilien "*Tres Amigos*," est parti de Rio de Janeiro au Mois de Septembre, 1826, muni d'un Passeport, qui l'autorisoit à toucher aux Iles de Cap Vert dans son retour.

Allant d'Angola à ces Iles, pour y prendre du sel, il est entré, par détresse, dans le Port de Sierra Leone, où il est resté 11 jours sans être molesté par les Autorités territoriales : mais, ayant appareillé de ce Port le 17 Avril 1827, il fut arrivé, après quelques heures de Navigation, par la Chaloupe de la Corvette de Guerre de Sa Majesté Britannique le "*North Star*," commandé par le Capitaine Septimius Arabin, qui avoit été expédié du même Port, pour en effectuer la Capture.

La Commission Mixte de la dite Colonie ne tarda point à en instruire la procédure, et elle a mis le comble au scandale d'une si blamable saisie, en condamnant la Prise, sous le prétexte d'avoir des Esclaves à son bord, c'est à dire 3 petites Nègresses, que le Capitaine du Yacht avoit acheté à Angola, et qu'il amenoit à Rio de Janeiro en qualité de Domestiques.

Un simple raisonnement suffira, Mylord, pour vous faire connoître toute l'injustice du Jugement rendu par la Commission sus-mentionnée.

Si les 3 Nègresses étoient transportées au Brésil pour y devenir un objet de Commerce, la condamnation du Yacht capturé ne pouvoit pas avoir lieu, car les Bâtimens Brésiliens ont le droit de faire la Traite des Nègres au Port d'Angola, (au Sud de l'Equateur) où les susdites Nègresses avoient été embarquées, et la condamnation du dit Bâtiment est une violation manifeste de l'Article 4me du Règlement additionnel à la Convention du 28 Juillet 1817, dont voici les propres termes ;—"As often as the Cargo of Slaves found on board of a Portuguese Slave-ship shall have been embarked on any point whatever of the Coast of Africa, where the Slave-trade continues lawful to the Subjects of the Crown of Portugal, such Slave-ships shall not be detained, on pretext that the abovementioned Slaves have been brought originally by Land from any other part whatever of the Continent."

Si ces mêmes Nègresses allaient à Rio de Janeiro en qualité de Domestiques,

(et tel étoit le cas) on ne pouvoit pas non plus condamner le Yacht en question ; parceque l'Article 1er des Instructions annexées à la Convention précitée porte expressément, " que l'existence de Domestiques ou Matelôts Nègres à bord d'un Bâtiment employé au Commerce d'Esclaves, ne pourra, en aucun cas, être estimée une cause suffisante de détention, et encore moins de condamnation."

Dans cette Décision de la Commission Mixte de Sierra Leone, il y a non seulement de l'injustice, mais aussi de la nullité, parceque, en vertu de l'Article 4me de la Convention du 23 Novembre 1826, et de l'Acte du Parlement Britannique en date du 2 Juillet, 1827, qui la concerne, la susdite Commission est devenue incompétente pour prononcer sur la légalité ou l'illégalité de telles Prises.

Tels sont, Mylord, les vices du Jugement, par lequel le Yacht "*Tres Amigos*," a été condamné, et puisque Sa Majesté Britannique s'est engagée, par l'Article 5me de la Convention du 28 Juillet, 1817, à bonifier toutes les pertes que ses Croiseurs occasionneroient aux Sujets Brésiliens, par des saisies arbitraires et illégales de leurs Bâtimens employés au Trafic d'Esclaves, mon Gouvernement réclame de celui du Roi l'Indemnité qui est due au Sieur Bernardino Antonio de Mattos, Propriétaire de la Prise sus-mentionnée, et je ne manquerai pas de vous indiquer le montant de cette Indemnité, aussitôt que j'aurai reçu les Pièces qui me seront fournis à cet effet.

En attendant je vous prie, &c.

(Signed) LE VICOMTE D'ITABAYANA.

Son Excellence Lord Aberdeen,  
&c. &c. &c.

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(Translation.)

MY LORD,

Park Crescent, November 24, 1828.

THE Brazilian Vessel "*Tres Amigos*," left Rio de Janeiro in the Month of September 1826, for the purpose of carrying on, at the Port of Angola, a trade in the commodities of the Country, but not in Slaves, and was provided with a Passport which authorized her touching at the Cape de Verde Islands on her return.

On her Voyage from Angola to those Islands, for the purpose of procuring salt, she was driven, by stress of weather, into the Port of Sierra Leone, where she remained 11 days without being molested by the Authorities of the Place; but having cleared out from thence on the 17th of April 1827, she was boarded, after a few hours sail, by the Tender of His Britannick Majesty's Ship of War, the "*North Star*," commanded by Captain Septimius Arabin, who had been despatched from Sierra Leone to capture her.

The Mixed Commission at that Colony immediately commenced Proceedings against the "*Tres Amigos*," and consummated this wrongful Seizure by condemning the Prize, under the pretext of her having Slaves on board, that is to say, 3 young Negresses, whom the Captain of the Vessel had bought at Angola, and was taking to Rio de Janeiro in the character of Servants.

It will be easy to satisfy you, my Lord, of the entire injustice of the Judgment pronounced by the abovementioned Commission.

Supposing that the 3 Negresses had been taken to Brazil for purposes of traffick, the Vessel in question could not have been condemned, because Brazilian Ships have the right of trafficking in Slaves at the Port of Angola, (to the South of the Line) where these Negresses were taken on board, and therefore the condemnation of the said Vessel is a direct violation of the 4th Article of the Regulation annexed to the Convention of the 28th of July 1817, which stipulates as follows: " As often as the Cargo of Slaves found on board of the Portuguese Slave-ship, shall have been embarked on any point whatever of the Coast of Africa, where the Slave-trade continues lawful to the Subjects of the Crown of Portugal, such Slave-ships shall not be detained, on pretext that the abovementioned Slaves have been brought originally by Land from any other part whatever of the Continent."

And if the said Negresses were going to Rio de Janeiro as Servants; (which was the fact,) neither could the Vessel in that case be condemned, because the 1st Article of the Instructions annexed to the abovementioned Convention, expressly provides, that "the finding of Negro Servants or Sailors on board of a Vessel engaged in the Slave-trade, cannot, in any case, be deemed a sufficient cause for detention, and still less for condemnation." In this Decision of the Mixed Commission at Sierra Leone, there is not only injustice, but also invalidity, because in virtue of the 4th Article of the Convention of November 23, 1826, and of the Act of the British Parliament dated the 2d of July 1827, relative thereto, the said Commission has become incompetent to decide upon the legality or illegality of such Captures.

Such, my Lord, are the defects of the Judgment by which the "*Tres Amigos*" was condemned, and as His Britannick Majesty has engaged, by the 5th Article of the Convention of July 28, 1817, to make good all the losses which His Cruizers might occasion to Brazilian Subjects, by the arbitrary and illegal seizures of their Vessels employed in the Slave-trade, my Government claims from that of The King the Indemnification which is due to Mr. Bernardino Antonio de Mattos, Owner of the abovementioned Prize, and I shall not fail to acquaint you with the Amount of such Indemnification, so soon as I shall have received the necessary information for this purpose.

In the meantime, I beg you, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*  
&c. &c. &c.

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Enclosure in No. 49.

*Sentence of the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Vessel "Tres Amigos."*

British and Portuguese Court of Mixed Commission, Sierra Leone.

Before His Honour Hugh Lumley, His Britannick Majesty's Commissary Judge, and William Smith, Esq., His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, JOSEPH REFFELL, Esq. Registrar.

*Tuesday, May 15, in the Year of our Lord 1827.*

"*Tres Amigos*," Manoel Francisco dos Santos Pirez, Master.

Our Sovereign Lord the King against the Brigantine or Vessel called the "*Tres Amigos*," whereof Manoel Francisco dos Santos Pirez was Master, her Tackle, Apparel, and Furniture, and all and singular the Goods, Wares, Merchandizes, and Slaves on board the same, and therewith taken and seized by a Tender of His Majesty's Ship "*North Star*," Septimius Arabin, Esq. Commander, and brought to Sierra Leone, and against all Persons in general.

William Henry Savage, Proctor on behalf of the Claimant, prayed the Claim by him given, to be admitted, and the said Brigantine, Cargo and Slaves, to be restored as claimed, with Costs, Damages, and Expences.

John Dean Lake, Proctor on behalf of the Captors, prayed the said Claim to be rejected, and the said Brigantine and Cargo to be condemned and the Slaves to be emancipated.

The said Commissary Judge and the Commissioner of Arbitration, having heard the said Claim and proofs read, pronounced the said Brigantine "*Tres Amigos*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been at the time of the Capture and Seizure thereof, engaged in the illicit traffick in Slaves, and as such subject and liable to confiscation, and condemned the said Brigantine "*Tres Amigos*," her Tackle, Apparel and Furniture, and the Goods, Wares and Merchandize laden therein,

as good and lawful Prize, and as taken in such illicit traffick by a Tender of His Majesty's Ship of War "North Star," Septimius Arabin, Esq. Commander, and moreover pronounced the said Slaves, Natives of Africa, to be emancipated from slavery, and to be employed as servants or free-labourers; and also that it had been proved that at the time of passing the said Sentence, 3 Girls did compose the whole of the Slaves so decreed to be emancipated.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence, made in the British and Portuguese Court of Mixed Commission established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, May 31, in the Year of our Lord 1827.

(Signed) JOSH. REFFELL, Registrar.

(L.S.)

### No. 50.

#### *The Viscount d'Itabayana to The Earl of Aberdeen.*

MY LORD,

*Park Crescent, ce 24 Novembre, 1828.*

LE Capitaine de Vaisseau, Charles Bullen, Commandant de la Frégate Angloise, "*Maidstone*," en croisière sur la Côte Septentrionale d'Afrique, a capturé le 14 Mars, 1827, le Bâtiment Brésilien "*Carlota*," qui, étant parti de Bahia, pour le Port de Molembo, où la Traite des Nègres est permise aux Sujets de L'Empereur, étoit entrée, en relâche forcée, dans celui de Badagry, pour y prendre des vivres, et faire quelques réparations.

L'Article 6me de la Convention du 28 Juillet, 1817, et le 1er des Instructions additionnelles, défendent expressément Mylord, la saisie de tout Bâtiment Négrier qui n'auroit point effectivement des Esclaves à bord; et tel étant le cas du Navire "*Carlota*," comme il est constaté par la Copie ci-jointe du Jugement condamatoire, que la Commission Mixte de Sierra Leone a rendu le 30 d'Avril de la même Année, il est évident que la capture et la condamnation de ce Bâtiment sont une infraction manifeste des Actes précités, lesquels ne défendent aux Bâtimens Brésiliens d'entrer dans les Ports d'Afrique, au Nord de l'Equateur, pour y prendre des vivres, ou des denrées du Pays.

De plus, comme par suite de l'Article 4me de la Convention faite entre le Brésil et l'Angleterre, le 23 Novembre 1826, ainsi que de l'Acte du Parlement Britannique en date du 2 Juillet, 1827, qui la concerne, la Commission susmentionnée est devenue incompétente pour juger de telles Prises, la Sentence qu'elle a prononcé contre le Navire en question, est tout-à-fait nulle et non-avenue.

Et, puisque Sa Majesté Britannique a contracté par l'Article 5me de la Convention du 28 Juillet 1817, l'engagement de bonifier toutes les pertes occasionnées par la saisie arbitraire et illégale que ses Croiseurs auroient faite des Bâtimens Brésiliens destinés au Commerce d'Esclaves, j'ai l'honneur de m'adresser à votre Excellence, par Ordre exprès de mon Gouvernement, pour lui demander l'Indemnité qui est dûe au Sieur José Cerqueira Lima, Propriétaire du Navire "*Carlota*;" et dont le montant, calculé d'après les paragraphes 1, 2, 3, 5, et 7 du Règlement annexé à la susdite Convention, est celui de Reis 43,459\$100, accru d'un Intérêt de 5 pour Cent à l'An, jusqu'à l'époque où le paiement intégral en sera effectué.

La fidélité du Gouvernement de Sa Majesté Britannique à remplir ses engagements, me garantit le succès de cette juste demande; et dans cette espérance je vous prie, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*

&c. &c. &c.

(Translation.)

MY LORD,

Park Crescent, November 24, 1828.

CAPTAIN CHARLES BULLEN, commanding the British Frigate "*Maidstone*," cruizing on the Western Coast of Africa, captured, on the 14th March 1827, the Brazilian Vessel "*Carlota*," which, having left Bahia for the Port of Moembo, where the Slave-trade is allowed to the Subjects of The Emperor, had been forced to put into Badagry, to obtain provisions and make some repairs.

The 6th Article of the Convention of July 28, 1817, and the 1st of the Instructions annexed thereto, expressly forbid the seizure of any Slave-vessel which should not have Slaves actually on board; and this being the case with the "*Carlota*," as is proved by the annexed Copy of the Sentence of Condemnation passed by the Mixed Commission of Sierra Leone, on the 30th April of the same Year, it is clear that the Capture and Condemnation of this Vessel are a manifest infraction of the Acts above cited, which do not forbid Brazilian Vessels from putting into African Ports to the North of the Line, for the purpose of obtaining Provisions or Merchandize of the Country.

Moreover, the said Commission having become incompetent to decide on such Captures, in consequence of the 4th Article of the Convention concluded between Brazil and Great Britain, on the 23d November 1826, and of the Act of Parliament of July 2, 1827, relative thereto,—the Sentence which it has pronounced on the Vessel in question is, therefore, altogether null and void.

And since His Britannick Majesty has engaged, by the 5th Article of the Convention of July 28, 1817, to make good all losses which his Cruizers might occasion, by the arbitrary and illegal Capture of Brazilian Vessels employed in the Slave-trade; I have the honour to address myself to your Excellency, by direction of my Government, to demand the Indemnity which is due to M. José Cerqueira Lima, the Owner of the "*Carlota*;" the Amount of which, calculated according to the 1st, 2d, 3d, 5th, and 7th Sections of the Regulation annexed to the abovementioned Convention, is 43,459\$100 Reis; with the addition of Interest, at the rate of 5 per Cent. per Annum, to the time when payment thereof shall be completely effected.

The punctuality of His Britannick Majesty's Government, in fulfilling its Engagements, makes me confident of the success of this just demand; and in this hope I pray, &c.

(Signed) LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*  
 &c.      &c.      &c.

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First Enclosure in No. 50.

*Sentence, &c. of the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Schooner "Carlota."*

British and Portuguese Court of Mixed Commission, Sierra Leone.

Before His Honour Hugh Lumley, His Britannick Majesty's Commissary Judge, and Joseph Reffell, Esquire, His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, WILLIAM SMITH, Esq., Registrar.

*Monday, the 30th day of April, in the Year of our Lord 1827.*

Schooner "*Carlota*," Joze Francisco da Costa, Master.

Our Sovereign Lord The King against the Schooner or Vessel called the "*Carlota*," whereof Joze Francisco da Costa was Master, her Tackle, Ap-

parel, and Furniture, and all and singular the Goods, Wares, and Merchandize on board the same, and therewith seized and taken by His Majesty's Ship "Maidstone," Charles Bullen, C. B. Commander, and brought to Sierra Leone; and against all Persons in general.

Joze Francisco da Costa, Master of the said Schooner, prayed the Claim by him given, to be admitted, and the said Schooner and Cargo to be restored as claimed, as the sole property of Joze Cerqueira Lima, of Bahia, together with Costs, Damages, and Expences.

William Henry Savage, Proctor, on behalf of the Captors, prayed the said Claim to be rejected, and the Schooner and Cargo to be condemned.

The Commissary Judge and Commissioner of Arbitration, having heard the said Claim, and proofs read, pronounced the said Schooner "*Carlota*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and, as such, subject and liable to confiscation; and condemned the said Schooner, her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, as good and lawful Prize, and as taken in such illicit traffick by His Majesty's Ship "Maidstone," Charles Bullen, C. B. Commander; and also that it had been proved that, at the time of passing the said Sentence, no Slaves were on board, but that the said Schooner "*Carlota*" had been captured off Badagry, in the Bight of Benin, in 6. 12. Latitude North of the Equator, in direct opposition to her Imperial Passport, marked No. 50, dated Bahia, 18th December 1826; which said Imperial Passport made it obligatory upon her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil; which, by the 2d Article of the Convention to the Treaty between Great Britain and Portugal, signed at London, on the 28th of July 1817, is confined to the Territories of His Most Faithful Majesty The King of Portugal, to the South of the Equator, and against the true intent and meaning of the said 2d Article, and of the 1st Article of the Treaty signed at Vienna, the 22d January 1815.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence, made in the British and Portuguese Court of Mixed Commission, established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand and affixed the Seal of the said Court, at Freetown, in the Colony of Sierra Leone, the 11th day of May, in the Year of our Lord 1827.

(Signed) JOSH. REFFELL, Registrar.

**DECLARATION AND PROTEST.** By this Publick Instrument of Declaration and Protest, be it known and made manifest, that on the 13th day of April, in the Year of our Lord 1827, personally came and appeared before me, William Henry Savage, Notary Publick by Royal Authority, duly admitted, sworn, and registered in the High Court of Chancery in England, Joseph Francisco da Costa, Master of the Schooner or Vessel the "*Carlota*," belonging to the Port of Bahia, in the Brazils, who did declare and say as follows:—That the said Vessel "*Carlota*," being furnished with an Imperial Passport, sailed from the said Port, in the prosecution of a Voyage for the purpose of procuring a Cargo of Slaves on the Coast of Africa. That the said Imperial Passport did especially permit the said Vessel to touch at Places to the North of the Line. Wherefore the said Schooner "*Carlota*" was brought to an anchor at Badagry, on the Coast of Africa, for the purpose of supplying the said Schooner with fresh water, for the use of the Crew of the said Vessel, and also for the purpose of purchasing provisions for the remainder of the Voyage. That while so lying at anchor at Badagry aforesaid, the said Schooner "*Carlota*" was visited, seized, captured, and detained, by His Majesty's Ship "Maidstone," whereof Commodore Charles Bullen, C. B. was Commander, for an alleged breach of the Treaties made for the suppression of illicit Slave-trade, although the said Schooner had not any Slave or Slaves on board, nor had any been shipped or received on board during the Voyage, all which was fully made to appear to the said

Captor; yet he, the said Commodore Charles Bullen, C. B. did order the said Schooner "*Carlota*" to be taken to Sierra Leone, and there proceeded against, and at which Place the said Schooner did arrive, and before the Court of Commission, was libelled and proceeded against, and was therein condemned as having been engaged in illicit Slave-trade, on this 13th day of April 1827, contrary to the express Articles of the Treaties between Great Britain and Portugal, which stipulate, that Vessels which have received any Slave or Slaves on board, or which may be found with any Slave or Slaves on board, should alone be liable to confiscation, of which fact there was full proof given, and acknowledged by the said Court, in the Judgment, that there was no Slave or Slaves found or alleged to have been taken on board during the Voyage. Therefore, he, the said Appearer, did declare to protest as well against the said Seizure as against the said Condemnation. Wherefore I, the said Notary, do, by these Presents, solemnly acknowledge the same; and, in the name of the said Appearer, do make publick and declare the same against all Persons in general, concerned in the said alleged capture and detention of the said Schooner or Vessel "*Carlota*."

Of all which an Act being required of me, I have granted the same, under my hand and Seal of Office, this 13th day of April 1827, at Freetown, in the Colony of Sierra Leone.

In testimonium veritatis. (Signed) W. H. SAVAGE, N. P.

Second Enclosure in No. 50.

*Compte de l'Indemnité qui est due au Propriétaire du Bâtiment Brésilien "Carlota," injustement condamné par la Commission Mixte de Sierra Leone.*

	Reis.
Pour la valeur du Bâtiment - - - -	6,720\$000
Pour celle de la Cargaison - - - -	24,033\$000
Pour celle de 10 Esclaves, marins, qui furent affran- chis - - - -	5,000\$000
Pour le Fret dû - - - -	7,706\$100
Reis -	43,459\$100

Outre les frais de la Procédure, et l'Intérêt de 5 pour Cent, alloué par l'Article 8me du Règlement additionnel à la Convention du 28 Juillet 1817.

(Signed) LE CHEVALIER DE MATTOS.

Londres, ce 24 Novembre 1828.

(Translation.)

*Account of the Indemnity due to the Owner of the Brazilian Vessel "Carlota," unjustly condemned by the Mixed Commission at Sierra Leone.*

	Reis.
For the value of the Vessel - - - -	6,720\$000
For that of the Cargo - - - -	24,033\$000
For that of 10 Slaves, sailors, who were liberated -	5,000\$000
For the Freight due - - - -	7,706\$100
Reis -	43,459\$100

Besides the Costs of Proceeding, and Interest, at the rate of 5 per Cent. allowed by the 8th Article of the Regulation annexed to the Convention of July 28, 1817.

(Signed) LE CHEV. DE MATTOS.

London, November 24, 1828.

## No. 51.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 24 Novembre 1828.*

ALLANT de Bahia à Molembo pour y faire le Commerce d'Esclaves, le Bâtiment Brésilien "*Independencia*," a été obligé d'entrer, en relâche forcée, au Port d'Acará, au Nord de l'Equateur; et quoiqu'il y fut sous la portée du canon des Batteries d'un Fort Anglais, et que cette circonstance dût le mettre à couvert de tout soupçon d'une intention frauduleuse, le Capitaine Arthur Wakefield, Commandant du Brick de Sa Majesté Britannique le "*Conflict*," a crû pouvoir s'en emparer, comme il l'a fait, le 28 Fevrier 1827.

Par cet abus scandaleux de la force, le susdit Officier de Marine a violé, non seulement l'Article 5me. de la Convention du 28 Juillet 1817, qui défend absolument la détention de tout Bâtiment Négrier, qui n'auroit point effectivement des Esclaves à bord, mais aussi l'Article 2me. des Instructions additionnelles, que je vais citer ici mot-à-mot—"No Merchantman or Slave-ship can, on any account or pretence whatever, be visited or detained whilst in a Port or Roadsted belonging to either of the Two High Contracting Powers, or within cannon-shot of the Batteries on Shore. But, in case suspicious Vessels should be found so circumstanced, proper Representations may be addressed to the Authorities of the Country, requesting them to take effectual measures for preventing such abuses."

Et par comble de violence et d'injustice, la Commission Mixte de Sierra Leone, où le Navire détenu a été amené, l'a condamné par un Jugement rendu le 15me Mai 1827 (dont Copie ci-jointe), et sous l'étrange prétexte d'avoir été rencontré dans un Port au Nord de la Ligne, quand il n'y a pas dans les Conventions du 22 Janvier 1815, et 28 Juillet 1817, aucun Article qui empêche les Bâtiments Brésiliens d'aborder dans les Ports d'Afrique au Nord de l'Equinoxiale, ni d'y entrer pour s'approvisionner de denrées du Pays. Dans cette décision de la susdite Commission, il y a autant d'injustice que de nullité; car l'autorité que cette Cour exerçait en vertu de la Convention précitée, a été abrogée par l'Article 4me. de celle du 23 Novembre 1826, ainsi que par l'Acte du Parlement Britannique en date du 2 Juillet 1827.

Et puisque la Sentence prononcée contre le Navire "*Independencia*," est manifestement opposée à l'esprit et à la lettre des Actes précités, et que Sa Majesté Britannique a contracté, par l'Article 5me. de la Convention du 28 Juillet 1817, l'obligation formelle de dédommager tous les Sujets de Sa Majesté Impériale qui seraient lésés par des saisies arbitraires et illégales, que ses Croiseurs auraient faites des Bâtiments Brésiliens destinés à la Traite des Nègres, mon Gouvernement réclame aujourd'hui l'indemnité qui est due au Sieur Jozé Cerqueira Lima, Propriétaire du Bâtiment condamné; et la somme, qui, en conformité des paragraphes 1, 2, 3, et 5. de l'Article 8me. du Règlement additionnel à la Convention ci-dessus mentionnée, doit lui être accordée, est celle de Reis 53,007\$220 spécifiée dans le Compte annexé, avec addition d'un Intérêt de 5 pour Cent à l'An, jusqu'à l'époque du remboursement effectif du montant réclamé.

Telle est, Mylord, la demande que je suis chargé de faire au Gouvernement du Roi, en invoquant sa droiture, et la réciprocité de l'acte d'équité que L'Empereur, mon Maître, vient de pratiquer envers les Sujets de Sa Majesté Britannique.

En faisant droit à une aussi juste demande, vous ajouterez de nouveaux titres, mylord, à la haute considération, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*

&amp;c. &amp;c. &amp;c.



(Translation.)

MY LORD,

Park Crescent, November 24, 1828.

THE Brazilian Vessel "*Independencia*," on her Voyage from Bahia to Molembo, for the purpose of carrying on the Traffick of Slaves, was compelled to put into the Port of Accra, to the North of the Line; and although she lay there within the range of the guns of an English Fort, and although this fact ought to have prevented any suspicion of a fraudulent intention, Captain Arthur Wakefield, commanding His Britannick Majesty's Brig "*Conflict*," considered himself authorized to capture her, which he did on the 28th of February 1827.

By such a scandalous abuse of power, the said Officer has violated not only the 5th Article of the Convention of July 28, 1817, which positively forbids the detention of any Slave-vessel which shall not have Slaves actually on board, but also the 2d Article of the Instructions, annexed thereto, which I here quote word for word:—"No Merchantman or Slave-ship can, on any account or pretence whatever, be visited or detained whilst in a Port or Roadsted belonging to either of the Two High Contracting Powers, or within cannon-shot of the Batteries on Shore. But in case suspicious Vessels should be found so circumstanced, proper Representations may be addressed to the Authorities of the Country, requesting them to take effectual measures for preventing such abuses."

In order to complete this violence and injustice, the Mixed Commission at Sierra Leone, to which Place the detained Vessel was carried, condemned her, by a Sentence passed on the 15th of May 1827, (a Copy of which is hereto annexed), under the extraordinary pretext of her having been found in a Port to the North of the Line, whereas, neither in the Convention of January 22, 1815, nor in that of the 28th of July 1817, is there any Article which precludes Brazilian Vessels from touching at African Ports to the North of the Line, nor from entering them to procure the commodities of the Country. This decision of the aforesaid Commission is as invalid as it is unjust; because the power exercised by that Commission under the Convention above-mentioned, has been annulled by the 4th Article of that of the 23d November 1826, as well as by the Act of the British Parliament of July 2, 1827.

As the Sentence pronounced against the "*Independencia*" is manifestly contrary to the spirit and the letter of the Acts already quoted; and as His Britannick Majesty has formally engaged, by the 5th Article of the Convention of July 28, 1817, to indemnify all Subjects of His Imperial Majesty who should be injured by the arbitrary and illegal Capture of their Vessels employed in the Slave-trade by British Cruizers, my Government now claims the Indemnity due to M. Jozé Cerqueira Lima, Owner of the condemned Vessel; and the sum which, according to the 1st, 2d, 3d, and 5th Sections of the 8th Article of the Regulation, annexed to the abovementioned Convention, ought to be awarded to him, amounts to 53,007\$220 Reis, as is specified in the annexed Account, with the addition of interest, at the rate of 5 per Cent. per Annum, up to the time of payment of the amount claimed.

Such, my Lord, is the demand that I am charged to make to His Majesty's Government, appealing, at the same time, to its justice, and claiming reciprocity for the act of equity recently practised by The Emperor, my Master, towards the Subjects of His Britannick Majesty.

By acceding to this just demand, you will add fresh titles to the high consideration, &c.

(Signed) LE VICOMTE D'ITABAYANA.

His Excellency The Earl of Aberdeen,  
&c. &c. &c.

First Enclosure in No. 51.

*Sentence, &c. of the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Schooner "Independencia."*

British and Portuguese Court of Mixed Commission, Sierra Leone.

Before His Honour Hugh Lumley, His Britannick Majesty's Commissary Judge, and William Smith, Esq. His Britannick Majesty's Commissioner of Arbitration, acting in the absence of Commissioners on the part of His Most Faithful Majesty The King of Portugal.

PRESENT, JOSEPH REFFELL, Esquire, Registrar.

*Tuesday the 15th day of May, in the Year of our Lord, 1827.*

Schooner "*Independencia*," Jacinto Antonio Pereira Carneiro, Master.

Our Sovereign Lord The King, against the Schooner or Vessel, called the "*Independencia*," whereof Jacinto Antonio Pereira Carneiro was Master, her Tackle, Apparel, and Furniture, and all and singular the Goods, Wares, and Merchandize on board the same, and therewith seized and taken by His Majesty's Brig "*Conflict*," Lieutenant Arthur Wakefield, Commander, and brought to Sierra Leone, and against all Persons in general.

William Henry Savage, Proctor on behalf of the Claimants, prayed the Claim by him given, to be admitted, and the said Schooner and Cargo to be restored as claimed, with Costs, Damages, and Expences.

John Samo, Proctor on behalf of the Captors, prayed the said Claim to be rejected and the said Schooner and Cargo to be condemned.

The said Commissary Judge and Commissioner of Arbitration, having heard the said Claim, and proofs read, pronounced the said Schooner "*Independencia*," her Tackle, Apparel, and Furniture, and the Goods, Wares, and Merchandize laden therein, to have been, at the time of the Capture and Seizure thereof, engaged in the illicit Traffick in Slaves, and as such, subject and liable to confiscation; and condemned the said Schooner, her Tackle, Apparel, and Furniture, and the Goods, Wares and Merchandize laden therein, as good and lawful Prize, and as taken in such illicit Traffick in Slaves, by His Majesty's Brig-of-War "*Conflict*," Lieutenant Arthur Wakefield, Esq. Commander, and also that it had been proved that, at the time of passing the said Sentence, no Slaves were on board, but that the said Schooner "*Independencia*," was captured in Accra Roads, North of the Equator, on the 28th day of February 1827, in direct opposition to her Imperial Passport, marked No. 1, dated Bahia, the 19th day of January 1827, which said Imperial Passport made it obligatory upon her to enter solely such Ports on the Coast of Africa, where the Slave-trade is permitted to the Subjects of the Empire of Brazil:—which, by the 2d Article of the Additional Convention to the Treaty between Great Britain and Portugal, signed at London, on the 28th July 1817, is confined to the Territories of His Most Faithful Majesty The King of Portugal, to the South of the Equator, and against the true intent and meaning of the said 2d Article, and of the 1st Article of the Treaty, signed at Vienna, the 22d day of January 1815.

These are to certify, that the foregoing is a just and true Copy of the original Decree or Sentence, made in the British and Portuguese Court of Mixed Commission, established at Sierra Leone, in the Cause therein mentioned.

Extracted from the Registry of the said Commission.

In faith and testimony whereof, I have hereunto set my hand, and affixed the Seal of the said Court, at Free Town, in the Colony of Sierra Leone, the 26th day of May, in the Year of our Lord 1827.

(L.S.)

(Signed) JOSH. REFFELL, Registrar.

DECLARATION AND PROTEST. By this Publick Instrument of Declaration and Protest, be it known and made manifest, that on the 15th day of May, in the Year of our Lord 1827, personally appeared before me, William Henry Savage, Notary Publick by Authority of Parliament, duly admitted, sworn, and registered in the High Court of Chancery in England, Jacinto Antonio Pereira Carneiro, Master of the Brazilian Schooner "*Independencia*," who did declare and say as follows:—That, in the prosecution of her legal Voyage from the Brazils to the Coast of Africa, the said Schooner left the Harbour of Bahia, on the 20th day of January last, furnished with an Imperial Passport to trade in Slaves on the Coasts of Molembo and Cabinda; that on the 25th day of January following, the said Schooner "*Independencia*," was found to have sprung a leak, and made about twelve inches of water each hour; that the said leak must have arisen from some defect in the Vessel, but which had not been discovered before leaving the Brazils; that by reason of the currents and winds, the said Schooner was found to be only in N. 2. 15. 30. Latitude, on the 9th of February following, and that the said leak had increased, and that the increase thereof was occasioned by the violence of the wind; therefore it was deemed necessary by this Appearer, and the other Officers of the said Vessel, to put the said Schooner free to the wind, and make the first Port, where she might be refitted; that therefore the said Schooner was taken to Accra Roads, and there brought to an anchor under the cannon of the English Fort, and within range thereof, and was then and there repaired as circumstances would admit. That while so at anchor, on the 28th day of February last, the said Schooner or Vessel, "*Independencia*," was seized, detained, and taken possession of by His Britannick Majesty's Brig of War "*Conflict*," Arthur Wakefield, Esq. Commander, under an alleged pretence that the said Vessel was engaged in the unlawful Traffick in Slaves, when, in fact, the said Schooner or Vessel had not broke bulk, nor done any thing further than stopping the aforesaid leak, which was found to be in the bow of the Vessel, and near her fore chains. That the said Schooner or Vessel, called the "*Independencia*," whereof this Appearer was Master, was taken to Sierra Leone, where she arrived on the day of the 30th of March last, and was tried, and by the British Judges, who alone sit in the said Court, condemned, although all the facts here alleged were given in Evidence; therefore he, the said Appearer, did declare to protest, and by these presents doth most solemnly protest, as well against the said Capture, as the aforesaid Condemnation; and for losses of every description that may therein arise; the said seizure and condemnation being contrary to the Law of Nations, and contrary to all Treaties now existing between Brazil, Portugal, and Great Britain, inasmuch as the said Vessel never had, during the Voyage, any Slave or Slaves on board, nor was any traffick made in the Slave-trade, and further, the said Vessel being especially protected, as lying under the guns of a British Fort.

Wherefore I, the said Notary, at his request, have entered the said Protest, and in his name, and for all concerned, protested against all Persons in general, concerned in the aforesaid illegal Capture and Detention of the said Schooner or Vessel "*Independencia*."

Of all which an Act being required, I have granted the same, under my hand and Seal Notarial, the Day and Year above written.

In testimonium veritatis.

(Ls.)

(Signed)

W. H. SAVAGE, N. P.

## Second Enclosure in No. 51.

*Compte de l'Indemnité qui est due au Propriétaire du Bâtiment Brésilien, "Independencia," injustement condamné par la Commission Mixte de Sierra Leone.*

	Reis.
Pour la valeur du Bâtiment - - - -	7,875\$000
Pour celle de la Cargaison - - - -	33,241\$500
Pour celle de 12 Esclaves-marins, qui furent affranchis - - - -	6,300\$000
Pour le Frêt dû - - - -	5,590\$720
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Reis	53,007\$220
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Outre les frais de la Procédure et de l'Intérêt de 5 pour Cent, alloué par l'Article 8<sup>me</sup> du Règlement additionnel à la Convention, du 28 Juillet 1817.

(Signed) LE CHEV. DE MATTOS.

*Londres, ce 24 Novembre 1828.*

## (Translation.)

*Account of the Indemnity due to the Owner of the Brazilian Vessel, "Independencia," unjustly condemned by the Mixed Commission at Sierra Leone.*

	Reis.
For the value of the Vessel - - - -	7,875\$000
For that of the Cargo - - - -	33,241\$500
For that of 12 Slave-sailors, who were liberated - - - -	6,300\$000
For Freight due - - - -	5,590\$720
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Reis	53,007\$220
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Besides the Costs of Proceeding, and Interest, at the rate of 5 per Cent. allowed by the 8th Article of the Regulation annexed to the Convention of the 28th July 1817.

(Signed) LE CHEV. DE MATTOS.

*London, November 24, 1828.*

## No. 52.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 24 Novembre 1828.*

LA Convention du 23 Novembre 1826, relative à l'abolition finale de la Traite des Nègres, fut signé par les Plénipotentiaires de L'Empereur sous la condition expresse et formelle de ce que le Commerce d'Esclaves, que les Sujets Brésiliens avaient le droit de continuer à faire, pendant trois Ans, ne souffrirait pas aucun empêchement de la part des Croiseurs des autres Nations.

Et puisque cette clause a été itérativement violée par les Croiseurs de Sa Majesté Britannique, qui n'ont pas cessé d'enfreindre jusqu'à ce jour les Articles 5me. et 6me. de la Convention du 28 Juillet 1817, ainsi que les Articles 1er et 2d des Instructions additionnelles, qui défendent de la manière la plus positive, la détention de tout Bâtiment Brésilien qui n'aurait point effectivement à bord des Esclaves pris dans les Ports d'Afrique au Nord de l'Equateur, le Gouvernement Impérial se voit dans la nécessité de réclamer contre la continuation d'un abus, aussi manifestement contraire à la lettre des Actes précités ; et il m'a chargé d'en demander la prompte répression, en priant le Ministère du Roi de vouloir bien expédier les Ordres les plus positifs aux Croiseurs de Sa Majesté Britannique sur la Côte d'Afrique, pour qu'ils s'abstiennent de capturer les Bâtiments Brésiliens qui n'auront pas effectivement à bord des Esclaves tirés des Ports d'Afrique au Nord de l'Equateur, où la Traite des Nègres est entièrement défendue aux Sujets Brésiliens.

Telle est, Mylord, la pressante demande que j'ai l'honneur de vous faire aujourd'hui ; et elle est si juste, que je compte sur votre empressement à l'agréer, aussi que les assurances, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*San Excellence Lord Aberdeen.*

&c.

&c.

&c.

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(Translation.)

MY LORD.

*Park Crescent, November 24, 1826.*

THE Convention of the 23d November 1826, relative to the final abolition of the Slave-trade, was signed by the Plenipotentiaries of The Emperor, under the express and formal condition that the Traffick in Slaves, which Brazilian Subjects had the right to continue, for the term of 3 Years, should suffer no interruption from the Cruizers of other Nations.

This condition having been repeatedly violated by the Cruizers of His Britannick Majesty, who have, up to this date, constantly infringed the 5th and 6th Articles of the Convention of the 28th July 1817, as well as the 1st and 2d Articles of the Instructions annexed thereto, which forbid, in the most positive manner, the detention of any Brazilian Vessel which should not actually have on board Slaves taken from African Ports to the North of the Line ; the Imperial Government finds itself compelled to remonstrate against the continuation of an abuse so manifestly contrary to the tenour of the Acts before mentioned ; and it has charged me to demand the immediate repression thereof, and to request His Majesty's Government to be pleased to despatch the most positive Orders to the Cruizers of His Britannick Majesty on the Coast of Africa, to refrain from the capture of Brazilian Vessels, which shall not actually have on board Slaves, taken from the Ports of Africa to the North of the Line, where the Slave-trade is entirely prohibited to Brazilian Subjects.

Such, my Lord, is the urgent demand which I have now the honour to make to you, and from the justice of which I anticipate that it will meet with your ready acquiescence, together with the assurance, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*

&c.

&c.

&c.

## No. 53.

*The Earl of Aberdeen to The Viscount d'Itabayana.**Foreign Office, November 29, 1828.*

THE Undersigned, &c. has had the honour to receive the Note addressed to him by the Vicomte d'Itabayana, &c. on the 17th Instant, in which are renewed the Propositions contained in the Vicomte d'Itabayana's previous Note of the 26th of August, for the prolongation of the term fixed by the Convention of November 23, 1826, for the final abolition of Brazilian Slave-trade; and for the appointment of a Special Commission for the revision of the Sentences passed by the Mixed Commission at Sierra Leone, subsequently to the date of the aforesaid Convention.

With respect to the first of these Propositions, the Undersigned would have thought it unnecessary to add any thing to the Answer which it has already been his duty to return to it, on the part of his Government, in his Note of September 15th, if the course which the Vicomte d'Itabayana has judged proper to pursue, in urging a reconsideration of that Answer, did not imperatively call for a few remarks.

The Undersigned cannot conceal from the Vicomte d'Itabayana the astonishment with which he has observed the Vicomte d'Itabayana's extraordinary misconstruction of the Note presented by the Brazilian Plenipotentiaries at Rio de Janeiro, to the Plenipotentiary of His Majesty, on the 23d November 1826, upon which the Vicomte d'Itabayana founds his present application, and upon which he appears disposed to claim for Brazil a release from her obligations under the Convention.

It was the manifest object of the Plenipotentiaries, in that passage of their Note, to which the Vicomte d'Itabayana specifically refers, but which the Undersigned must be permitted to remark, he has not quite perfectly quoted in his Note of the 17th Instant, to point out two contingencies by which the Stipulations of the Convention, then about to be concluded between Brazil and Great Britain, were liable to be frustrated, to the prejudice of Brazil, by the acts of other Countries, against which contingencies the Plenipotentiaries were accordingly desirous, if possible, to obtain some security.

The contingencies here adverted to, by which Brazil was apprehensive that the Stipulations of the Convention, advantageous to the commerce of her Subjects, were liable to be rendered null and of no effect, would arise, as the Plenipotentiaries stated, and as was indeed obvious, "either if Portugal should prohibit the Slave-trade in her Ports on the Coast of Africa," (to which Ports alone, South of the Line, it was limited by the Convention,) or if "the Cruizers of other Nations should be disposed to interrupt the traffick, in virtue of Treaties on that subject with Great Britain." Against these liabilities the Note went on to ask of Great Britain some guarantee, a request which (it is hardly necessary to add) was not, and could not be, complied with.

The Undersigned can with difficulty persuade himself, that the Vicomte d'Itabayana is serious in his pretension, to attribute to this inoperative Paper the force of a qualifying Article to the Convention, to set up as a "Comminatory Clause," by virtue of which Brazil is to have the right, if she pleases, to cancel the solemn obligations of Treaty, a merely prefatory "observation," (for such is the name given to it by the Plenipotentiaries themselves) introductory to an application which was itself not complied with!—or that he can deliberately maintain that the seizure by British Cruizers of Brazilian Vessels, trading within limits distinctly prohibited by the Convention, is one of the Cases "foreseen," and described in a Paper, which, in point of fact, has no reference but to the permitted trade South of the Line,—and in which Paper no allusion is made to British Cruizers at all!

If it be possible that the Vicomte d'Itabayana should still entertain a doubt, as to the true import of the Note of the Brazilian Plenipotentiaries,

the Undersigned would refer him to the Answer returned to it, within a few days of its presentation, by the British Plenipotentiary. In that Answer, to which the Brazilian Negotiators would unquestionably have demurred, if it had contained an erroneous exposition of their sentiments on so important a point, Mr. Gordon speaks of the passage so strangely misunderstood by the Vicomte d'Itabayana, as "expressing the apprehension" of the Brazilian Plenipotentiaries, "that the stipulations of the Convention *may* become null and void," if the Cases to which they adverted should arise; and he describes the 2d of those Cases to be "the interruption of the traffick (of course the traffick sanctioned by the Convention to the South of the Line) "by *Spanish* and *American* Cruizers, in virtue of their Treaties with Great Britain."

With respect to the particular danger from the Cruizers of other Nations here alluded to, the Vicomte d'Itabayana need not to be informed, that, at the time of the conclusion of the Convention, a serious doubt existed, and was referred to in the discussions between the Plenipotentiaries, whether, after the separation of Brazil from Portugal, any legal Slave-trade could be carried on at all from any of the Portuguese Ports of Africa. The Vicomte d'Itabayana is perfectly aware that the permission to carry on that traffick at those Ports South of the Line, which was reserved to Portugal in her Treaties with Great Britain, was conceded to her at the Congress of Vienna, on the ground of the necessity of supplying the deficiency of population in the Brazils, as *Colonial Possessions of Portugal*. When, therefore, the Colonial character of Brazil was extinguished, it might be maintained that the traffick itself, so reserved to Portugal on that special ground, was extinguished too: and Vessels attempting to carry it on were obviously liable to be interrupted by the Cruizers of Nations, not Parties to the Compact between Great Britain and Brazil. It may be remarked, by the way, as a consequence of this view of the question, that the legalization of the Brazilian Slave-trade for the period of 3 Years under that Convention, was to be considered in the light of the concession of a new privilege, rather than as the limitation of an existing right.

The Undersigned now proceeds to examine the Second Proposition contained in the Note of the Vicomte d'Itabayana, respecting those Sentences which were pronounced by the Slave Commission at Sierra Leone, subsequently to the date of the Convention of 1826.

The Undersigned is again unable to conceal from the Vicomte d'Itabayana the extreme surprize with which His Majesty's Government have received his Proposition,—that those Sentences shall be considered invalid and of no effect.

The Vicomte d'Itabayana will surely admit, that it was not within the scope of the objects and intentions of the Convention of 1826, to abate or mitigate any thing of the provisions of the Treaties with Portugal, under which the Brazilian Slave-trade had, up to that period, been carried on, or to relax the Regulations, by which the abuses of that trade were restrained; but that it was, on the contrary, the peculiar object of that Convention to carry still further the principle of the existing Regulations, so far as they were binding on Brazil, by superadding to the Stipulations of the previous Treaties with Portugal, a solemn and direct Stipulation for the early total abolition of that inhuman traffick by Brazil.

This first and great provision of the Convention of 1826, which forms the subject of Article 1, was followed by the Declaration, in Articles 2 and 3, of the formal adoption by Brazil, upon her separation from the Kingdom of Portugal, of those Stipulations of the previous Treaties which were held to be, (in the words of the preamble) "binding on Brazil." And it is accordingly declared in those Articles, that the High Contracting Parties adopt and renew the provisions of the Treaties between His Britannick Majesty and the King of Portugal, of January the 22d 1815, and of July 28th 1817, under which the Slave Courts were appointed; and further agree, that all the matters and things contained in those Treaties, together with the Instructions and Regulations for the repression of illegal Slave-trade, shall be applied,

*mutatis mutandis*, to the said High Contracting Parties, and their Subjects, as effectually as if they were recited word for word in the Convention. The appointment of Mixed Commissions, in the form of those already established under the Treaty of 1817 (which is afterwards separately mentioned in Article 4), was amongst the Measures thus renewed and adopted.

Whilst the two Governments were thus employed, in giving a more formal sanction to provisions acknowledged to be then in existence, and adding other Stipulations for eventually extinguishing the Slave-trade, it is not to be supposed that they intended, by the same act, to suspend for an uncertain period the operation of any of the provisions actually in force. It was obvious that considerable time must necessarily elapse before the new Commissions, for which they were providing, could come into operation. The selection and appointment of the Members of those Commissions would naturally be attended with some delay; and still more would take place before the Commissioners, after their appointment, could arrive at their distant Posts, and be in a condition to enter on the duties of their Office. It is impossible to believe that the two Governments could have intended, that whatever Ships and Cargoes should be seized in the interval, should be detained without investigation or judgment for an indefinite period, to the certain deterioration of the property, and to the too probable destruction of every unfortunate Slave on board of Ships so circumstanced. It is not to be doubted, that, if such a state of things had been considered liable to result from the Convention, some provision would have been introduced into that Instrument, specifically to guard against it. But no necessity for such provision was held to exist. It was manifestly the understanding of both the High Contracting Parties to the Convention of 1826, that the Commissions then existing under the Treaties with Portugal, should, until their functions were actually superseded by the installation of the New Commissions, continue to exercise jurisdiction over cases of illegal Slave-trade, in the same manner as they had done up to that period, without objection on either side. Any other supposition would be at variance with common sense, and with the spirit and object of the Convention.

Upon these grounds the Undersigned is bound distinctly to declare, that His Majesty's Government cannot acquiesce in either of the Propositions contained in the Note of the Vicomte d'Itabayana of the 17th November.

The Undersigned, &c.

*The Viscount d'Itabayana,*  
&c.      &c.      &c.

(Signed) ABERDEEN.

#### No. 54.

*The Earl of Aberdeen to The Viscount d'Itabayana.*

*Foreign Office, December 1, 1828.*

THE Undersigned, &c. finding that the Notes which were addressed by the Vicomte d'Itabayana, to the Earl of Dudley, on the 3d of March, upon the Cases of the Vessels "*Activo*," and "*Perpetuo Defensor*," have remained unanswered, it becomes his duty to reply to them without farther delay.

In the abovementioned Notes, demands are made by the Vicomte d'Itabayana, for payment of Indemnities, which he states have been actually awarded by the Mixed Commission at Sierra Leone, but refused by His Majesty's Government, whilst they enclose Copies of the Sentences of the said Commission in justification of the Vicomte's demands.

It is fortunate that such is the case, since it enables the Undersigned to prove at once, and unquestionably, upon a simple reference to the said Enclosures, that the above demands are perfectly unwarrantable.

If the Vicomte d'Itabayana will have the goodness to re-peruse the Enclosures of his own Despatches, he will perceive how grossly the latter have been misinterpreted. He will then be compelled to admit that, in the Case of the



"*Activo*," the Sentence of the Commissioners, awards only Indemnities to the amount of £256 2s. 8d.; whilst it expressly states, that the Captors shall only be sentenced to pay the additional sum of £10,787 15s. 0d. "provided the British and Brazilian Governments agree, and declare, that the said sums ought to be paid according to the intent and meaning of the said Convention, *and not otherwise*."

Exactly in the same manner, in the Case of the "*Perpetuo Defensor*," the Commissioners have awarded a total of £351 10s. 0d. to the Claimants, but as there was no evidence of a similar breach of Treaty, in both Cases, by the Vessels in question, the payment of further Indemnities to the amount of £1,382 9s. 8d. and 79,716,000 Reis, was made to depend upon a subsequent Agreement betwixt the two Governments.

It can only remain, therefore, for the Undersigned to express his unfeigned surprise, that the Vicomte d'Itabayana, in his Notes of the 3d of March, should demand of the British Government, payment of the sums of £256 2s. 8d. in the Case of the "*Activo*," and of £351 10s. 0d. in the Case of the "*Perpetuo Defensor*," both of which had actually been paid to the Claimants, previously to the date of the said Notes, and that he should also have put forward a demand for payments, which are expressly ordained, according to the very Documents referred to by the Vicomte, to be suspended.

It is not the fault of His Majesty's Government, that the Agreement in question has not been concluded with the Government of Brazil.

It was officially and earnestly pressed for, by His Majesty's Minister at Rio de Janeiro, in the Months of July and December 1827, and again in June 1828, but Mr. Gordon's repeated Representations have been left unnoticed by the Brazilian Government, of which fact it can hardly be necessary for the Undersigned to take this opportunity to remind the Vicomte d'Itabayana.

The Undersigned avails himself, &c.  
*The Vicomte d'Itabayana,* (Signed) ABERDEEN.  
 &c. &c. &c.

### No. 55.

*The Earl of Aberdeen to The Viscount d'Itabayana.*

*Foreign Office, December 2, 1828.*

THE Undersigned has the honour to acknowledge the receipt of the Letter addressed to the Earl of Dudley by the Vicomte d'Itabayana on the 3d of March last, enclosing a Copy of the Sentence passed by the Court of Mixed Commission at Sierra Leone, in the Case of the Brazilian Brig "*Hiroina*," by which Sentence that Vessel and her Cargo were condemned as good and lawful Prize, as having, whilst on a Voyage of Slave-trade, been found and captured off the Port of Lagos, which is to the North of the Equator, in direct contravention of the Imperial Passport under which the Vessel sailed, and under which she was bound to enter solely those Ports and Places where the Slave-trade is permitted, and in opposition also to the true intent and meaning of the 2d Article of the Convention of July, 1817, between Great Britain and Portugal, defining the limits within which the Slave-trade is permitted to the Subjects of Brazil.

The grounds upon which the Vicomte d'Itabayana impugns the Sentence, and claims indemnity in the Case of this Vessel, are, first, that her infringement of the Passport was not an infringement of the Convention under which she was condemned; and, 2dly, that the 6th Article of the Convention, and the 1st of the Additional Instructions, forbid, in a most absolute manner, the Capture of Brazilian and British Vessels, excepting where Slaves are actually on board.

With respect to the first point, the Undersigned has only to observe, that if it cannot be denied that the Passport is part, and a material part, of the Regulations of the Convention, and that the Passport has been infringed, he

is at a loss to understand how it can be maintained that the Convention itself was not infringed by the act in question.

Upon the 2d point, the Undersigned admits, that the 6th Article of the Convention, and the 1st of the Additional Instructions, positively forbid the Capture of any Vessel not having Slaves actually on board.

This, however, is not the whole of the Case.

The Brazilian Government themselves have departed, in respect to Passports, both from the spirit and the letter of the original Convention, not only by allowing their Subjects to infringe, with impunity, the Stipulations of the Convention, with respect to the Passports actually granted to them, but by issuing Passports for Slave-trading, containing Provisions directly at variance with the terms to which the Brazilian Government were bound, under the Convention, to adhere in respect to the issue of those Documents.

And when His Majesty's Representative at Brazil remonstrated, by order of his Court, with the Government of that Country, both upon the impunity with which their Subjects were allowed to infringe the Treaty in respect to Passports, and upon their own infringement of the Convention in the promulgation of Licences, which that Instrument did not authorize; the Brazilian Government declined to apply a specifick remedy of their own to either of these abuses, but replied by suggesting to the British Government, in the Note of M. de Barbosa, of the Month of October 1825, that the said abuses might be dealt with under the Treaty, by which M. de Barbosa states, "means are afforded for preventing the illicit trade in Slaves," and that "every measure therein established might be applied for the purpose in question."

His Majesty's Government had then no alternative. It was impossible that they should construe the declaration of M. de Barbosa, as an avowal of the determination of the Brazilian Government that the Convention should be broken, and that no penalties should ensue. They accordingly construed it in the only sense in which, as a declaration from a friendly Power, it could reasonably be understood, namely, that although it suited the convenience of the Government of Brazil, in its relations with its own Subjects, to give a latitude to the Convention, in one way, by permitting their Slaving-vessels to touch at Points where the Slave-trade is not permitted, they were ready to admit, on the other hand, that if Ships should be found under circumstances which proved the intention to infringe the Convention at those Points, the penalties of the Convention might be applied to such Cases.

The penalties of the Convention are those of Capture and Condemnation; and the British Government, upon the receipt of the declaration of M. de Barbosa, gave orders accordingly, to the British Commissioners and Cruizers, to use the latitude thus given to the meaning of the Convention; and under those orders, Vessels have been captured, and Cases of Condemnation have taken place, such as are complained of in the Note of the Vicomte d'Itabayana, in the Case of the "Hiroina."

To have acted in any other manner, would have been to acquiesce in a virtual extinction of a part of the Convention, in one of the most important provisions for preventing the Slave-trade North of the Line.

His Majesty's Government, therefore, cannot admit the Claim for indemnity, which has been brought forward by the Vicomte d'Itabayana, in the Case of the "Hiroina," condemned justly, as the British Government contend, for infringing the conditions of the Treaty, in her having, while on a Slave-trade Voyage, proceeded for purposes of Slave-trade, to Points, where, by the Treaty, the Slave-trade is not permitted.

If the Brazilian Government object to the view taken on the subject by the British Government, they have it always in their power to bring about a restoration of the stricter practice, by returning themselves to the strict terms of the Convention.

The most effectual way, however, of putting an end to all risk of future misunderstanding, on the Points on which differences have arisen, as to the interpretation of the Treaty, will be by agreeing to an Article, such as has been already urged upon the Brazilian Government, in relation to these very Cases, and such as has been concluded by the Government of the Netherlands,

for subjecting Vessels to Capture and Condemnation, whenever furnished with equipments evidently for Slave-trade, and met with in Latitudes, which none ever frequent excepting for purposes of illegal Slave-trade.

The Undersigned avails himself &c.

*The Viscount d'Itabayana,*  
&c. &c. &c.

(Signed)

ABERDEEN.

No. 56.

*The Viscount d'Itabayana to The Earl of Aberdeen.*

MYLORD,

*Park Crescent, ce 4 Decembre, 1828.*

L'EXPEDITION de la maille du Brésil étant fixée à Samedi prochain, et désirant d'informer mon Gouvernement sur le résultat des Propositions que je vous ai faites par mes Notes du 17 et 24 de Novembre dernier, relativement à la prolongation du terme fixé pour l'abolition finale de la Traite des Nègres, et à la repression des abus que les Croiseurs Anglais continuent à commettre, en détenant des Bâtimens Brésiliens qui n'ont point des Esclaves à leur bord; je vous prie de vouloir bien m'honorer d'une Réponse, afin que je puisse la transmettre à ma Cour par cette occasion.

J'ai, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*Son Excellence Lord Aberdeen,*  
&c. &c. &c.

(Translation.)

MY LORD,

*Park Crescent, December 4, 1828.*

THE departure of the Brazil Mail being fixed for Saturday next, and being desirous of informing my Government of the result of the Propositions made to you, in my Notes of the 17th and 24th Ultimo, relative to the prolongation of the term fixed for the final abolition of the Slave-trade, and to the repression of the abuses which British Cruizers continue to commit, in detaining Brazilian Vessels not having Slaves on board; I have to request that you will be so good as to honour me with a Reply, in order that I may transmit the same to my Court, by this opportunity.

I have, &c.

(Signed)

LE VICOMTE D'ITABAYANA.

*His Excellency The Earl of Aberdeen,*  
&c. &c. &c.

No. 57.

*The Earl of Aberdeen to The Right Hon. Lord Ponsonby.*

MY LORD,

*Foreign Office, December 6, 1828.*

I HEREWITH transmit to your Lordship, for your information and guidance, the Copies of Correspondence, which has passed between the Vicomte d'Itabayana and myself, upon the subject of Propositions, which have been made on the part of the Government of Brazil, for extending the period

at present fixed for the abolition of Brazilian Slave-trade, and for a revival of Sentences passed by the Mixed Commission at Sierra Leone upon the Cases of Brazilian Slave-ships; I also enclose to your Lordship, Copies of my Correspondence with the Vicomte d'Itabayana, in the specifick Cases of the "*Activo*," "*Perpetuo Defensor*," and "*Hiroina*."

Your Lordship will perceive, that my Note of the 29th of November last, in reply to that addressed to me on the 17th of the same Month, by M. d'Itabayana, comprizes also an answer to the Propositions contained in the Note addressed by the Marquez de Aracaty to Mr. Gordon, on the 4th of June, 1828.

I have to point out to your Lordship's attention; 1st, that His Majesty's Government refuse to admit any modification of that Stipulation of the Convention of November 23, 1826, which limits the duration of Brazilian Slave-trade to a period of 3 Years, subsequent to the exchange of the Ratifications of that Convention;—a Stipulation which marks the termination of that trade at the 13th of March 1830.

2dly. That His Majesty's Government decline the Proposition of the Brazilian Government, to establish a Commission for the revival of all the Sentences which have been passed by the Mixed Commission at Sierra Leone upon Brazilian Vessels.

3dly. That His Majesty's Government maintain and uphold the validity of those Sentences pronounced by the Mixed Commission at Sierra Leone, between the period of the promulgation of the Convention of 1826, and that of the establishment of a Commission, purely British and Brazilian, at Sierra Leone.

4thly. That His Majesty's Government, at the same time that they reminded the Brazilian Minister, that by the Treaties upon Slave-trade, binding upon Brazil, the Sentences by the Mixed Commissions under those Treaties are final and without appeal; declared that, as the particular Sentences adverted to, in the Cases of the "*Activo*," "*Perpetuo Defensor*," and "*Hiroina*," involved an extension of that principle in the Treaties, by which it was formerly held, that the Sentences of the Mixed Commission were limited; His Majesty's Government was willing, and desirous, in respect to the points in question, to come to such an agreement with the Brazilian Government, as should terminate the differences which had arisen, upon the subject of the application of the principles involved in the Treaty.

I have further to observe to your Lordship, in the present stage of the proceedings on these points, that His Majesty's Government are determined to adhere to the principles contained in the declaration, which was made to the Portuguese Government by His Majesty's Representative, so far back as October 1823, that "no compensation whatever can be due to Traders, in cases of traffick carried on under circumstances which constitute illicit trade; whilst, on the other hand, no condemnation of a Vessel ought to take place, when the Capture is made at a Spot, not absolutely within the bounds prescribed for capture by the Treaty."

If it should be observed, that this declaration, while it denies compensation to all Vessels found illegally trading, does not maintain their liability to condemnation, excepting when found to the North of the Line, and that it does not therefore embrace the question, whether Vessels trading contrary to Treaty, by irregular Licences, or by acting contrary to their proper Licences, or by touching at Ports prohibited, or by otherwise infringing the Treaty, whether with or without Slaves on board, might, by the act of infringement of the Treaty, be considered as liable to capture under that Compact; His Majesty's Government answer, that this point is settled by the declaration of the Brazilian Government themselves; who, declining to use their own means of punishing those of their Subjects, who should infringe the Treaty, left it to the British Government to repress the evil, by applying to those Cases the remedy which the Treaty between the two Countries furnished.

The only remedy given by the Treaty to Great Britain, as applying to Brazilian Subjects, was the penalty of Capture and Condemnation of the Vessel and Cargo engaged in the illicit Slave-trade.

His Majesty's Government have so applied the Treaty to the Cases in question; and, until further arrangement between the two Countries shall take place upon the subject, your Lordship will bear in mind, that these are the principles, and this is the practice, maintained by this Country.

I am, &c.

(Signed) ABERDEEN.

*The Right Hon. Lord Ponsonby,*  
&c. &c. &c.

No. 58.

*Mr. Vice Consul Heatherly to John Bidwell, Esq.—(Received March 15.)*

SIR,

*Rio de Janeiro, January 15, 1828.*

I HAVE the honour to transmit herewith, a Return of the number of Slaves imported into this City, from July 1st to December 31st last.

I have, &c.

*John Bidwell, Esq.*  
&c. &c. &c.

(Signed) A. J. HEATHERLY.

Enclosure in No. 58.

*Return of Slaves imported into Rio de Janeiro, from the 1st of July to the 31st of December, 1827.*

Date of Arrival.	Whence.	Vessels' Names.	Days out.	No. of Slaves Shipped.	No. of Slaves died on Passage.
1827.					
July 11	Ambris - - -	Eclipse - - -	45	281	5
" 13	Cabinda - - -	Flor do Rio - - -	35	510	10
" "	Do. - - -	Andas, robbed by a Privateer, - - - 355 }	37	143	8
" 15	Benguella - - -	Imperador do Brazil - - -	36	316	47
" 21	Do. - - -	Leona Africana - - -	27	428	27
" 25	Angola - - -	Conceição e Pasos - - -	37	478	82
August 1	Ambris - - -	Tres Corações - - -	39	577	4
" 2	Cabinda - - -	Nova Distino - - -	36	576	5
" 12	Benguella - - -	Canoes - - -	26	616	20
" 31	Angola - - -	Commerciante - - -	29	484	31
" "	Do. - - -	Boa Viagem - - -	30	321	22
September 8	Ambris - - -	Brilhante - - -	25	338	1
" "	Do. - - -	Triunfo - - -	26	314	8
" 29	Angola - - -	Dois Amigos - - -	33	472	8
" "	Benguella - - -	Bella Eliza - - -	38	253	24
October 4	Ambris - - -	Novo Providencia - - -	35	212	None
" 13	Bahia - - -	Fortuna - - -	11	161	None
" 15	Molembo - - -	Voadora - - -	34	186	9
" "	Bahia - - -	Commerciante - - -	20	75	None
" 16	Molembo - - -	Estreila do Mar - - -	34	225	2
" 28	Do. - - -	Alcenia - - -	35	272	2
" "	Ambris - - -	Velo - - -	36	261	50
November 1	Do. - - -	Dezengano - - -	30	545	34
" "	Do. - - -	Cotia - - -	28	305	3
" "	Pernambuco - - -	Mercês e Pasos - - -	"	26	None

## Enclosure in No. 58, continued.

Date of Arrival.	Whence.	Vessels' Names.	Days out.	No. of Slaves Shipped.	No. of Slaves died on Passage.
1827.					
November 9	Cabinda - - -	Rainunculo - - -	40	382	5
" 14	Do. - - -	Ullises - - -	32	450	None
" 20	Angola - - -	Feliz Eugenia - - -	40	720	33
" 26	Cabinda - - -	30e de Marco - - -	28	448	28
December 6	Angola - - -	Primoroso - - -	39	440	4
" 10	Cabinda - - -	Maria Justina - - -	37	570	8
" "	Rio Zaire - - -	Novo Athalanta - - -	48	195	2
" "	Do. - - -	Efegenia - - -	36	201	4
" 11	Bahia - - -	Conceição Oliveira - - -	14	717	11
" 14	Cabinda - - -	Legerio - - -	30	360	6
" "	Ambris - - -	Carolina - - -	27	270	4
" 17	Benguella - - -	Maria - - -	37	375	15
" 18	Ambris - - -	Velho de Dia - - -	28	230	None
" 21	Cabinda - - -	Josephina - - -	42	146	None
" 22	Benguella - - -	Traiano - - -	37	454	2
" 28	Cabinda - - -	Esperança - - -	56	483	69
" 29	Moçambique - - -	Industria - - -	55	665	8
Total Number			-	15,481	601

(Signed) A. J. HEATHERLY, Acting Consul-General.

*Rio de Janeiro, January 15, 1828.*

## No. 59.

*Mr. Vice-Consul Heatherly to The Earl of Dudley.—(Received May 27.)*

MY LORD,

*Rio de Janeiro, March 13, 1828.*

I HAVE the honour to acknowledge the receipt of your Despatch, dated the 26th of December last, together with its Enclosures, in which you desire me to transmit such particulars as I can obtain, respecting 4 Brazilian Vessels, which were boarded by His Majesty's Brig "*Conflict*," at Lagos Bay, under suspicious circumstances, but which were found on examination to be furnished with Mercantile Passports.

I beg leave to say, that I have made every enquiry possible in this City, without being able to obtain the least information respecting them, they not having been fitted out from this Port; but as the Vessels belong to the Port of Bahia, I shall transmit a Copy of your Lordship's Despatch to Mr. Pennell, His Majesty's Consul at that Port, with directions to forward such information to your Lordship, as he may be enabled to obtain thereon.

I have, &amp;c.

(Signed) A. J. HEATHERLY.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

## No. 60.

*Mr. Vice-Consul Heatherly to John Bidwell, Esq.—(Received June 24.)*

SIR,

*Rio de Janeiro, April 26, 1828.*

I HAVE the honour to enclose to you, a Return of the Number of Slaves imported into this City and Province, from January 1st to March 31st 1828,

## BRAZIL.

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by which you will observe, that the number imported this Quarter nearly equals that of any previous Half-Year.

I have, &c.

(Signed) A. J. HEATHERLY.

John Bidwell, Esq.  
&c. &c. &c.

Enclosure in No. 60.

*Return of the Number of Slaves imported into Rio de Janeiro, from the 1st of January to the 31st of March 1828.*

Date.	Whence.	Vessels' Names.	Days out.	Number of Slaves.	Number of Slaves died on Passage.
1828.					
January 1	Ambris .....	General Rego .....	30	391	6
" "	Quilimaine .....	28 de Maio .....	70	504	14
" 3	Rio Zaire .....	Uniao Felix .....	26	351	None.
" 5	Benguela .....	Economia .....	32	350	None.
" 7	Cabinda and Bahia ..	{ Tejo, shipped 420, had taken from her at Sea 326 .....	74	94	None.
" 8	Mozambique .....	7 de Março .....	62	604	87
" 10	Rio Zaire .....	Forcato .....	31	254	None.
" "	Quilimaine .....	Golfinho .....	53	549	40
" 17	Moçambique .....	Anibal .....	56	836	90
" "	Ambris .....	Conde dos Arcos .....	32	320	22
" 20	Moçambique .....	Flor .....	52	644	32
" 24	Cabinda .....	Nova Amazona .....	38	396	14
" 25	Angola .....	Seis de Fevereiro .....	41	375	14
" 28	Quilimaine .....	Seis de Fevereiro .....	54	430	17
" 29	Cabinda .....	Henriqueta .....	33	401	12
" 30	Angola .....	Mercantil .....	26	722	11
February 5	Do. ....	Violante .....	33	254	8
" 8	Cabinda .....	Cometa .....	28	386	18
" 18	Molembo and Cabinda	Mercantil .....	30	160	32
" 24	Cabinda .....	Marquez de Pombal .....	32	334	7
" "	Bahia .....	Vingador .....	8	597	None.
" "	Do. ....	Felicidade .....	8	322	None.
" 25	Cabinda .....	Ligeira .....	26	225	None.
March 2	Benguela .....	Leo a Africana .....	32	411	11
" 3	Quilimaine .....	Hercules .....	58	592	42
" 4	Ambris .....	Cassador .....	32	521	None.
" "	Cabinda .....	Ulisses .....	49	588	2
" 10	Cabo da Angola .....	Aurora .....	35	516	28
" 17	Cabinda .....	Bella Americana .....	40	351	8
" 19	Quilimaine .....	Viagente .....	62	636	124
" 22	Do. ....	Minerva .....	63	460	41
" "	Rio Zaire .....	Galiana .....	30	225	None.
" 25	Cabinda .....	Astrea .....	68	931	189
" "	Moçambique .....	4 de Abril .....	73	663	59
" 26	Cabinda .....	{ Polifena, shipped 360, had taken from her at Sea 328 .....	34	32	None.
" 30	Pernambuco .....	Triunfo do Mar .....	12	58	None.
Total			-	15,483	928

(Signed) A. J. HEATHERLY.

Rio de Janeiro, 26th April, 1828.

No. 61.

*Mr. Consul Pennell to The Earl of Dudley.—(Received February 13, 1828.)*

(Extract.)

*Bahia, December 1, 1827.*

NOTWITHSTANDING the unusual number of Slave-vessels belonging to this Port, which have been this Year captured by our Cruizers on the Coast of Africa, the illicit Importation of Slaves has augmented, and the Market is so much overstocked, that 3 Vessels sailed the 26th Ultimo for Rio de Janeiro, having on board 1,131 Slaves.

I am informed that the illicit Slave-trade this Year, in its general result, has been more profitable than any other Mercantile undertaking from this Port.

Two French Brigs-of-War were here in August last, after having been employed for some Months on the Coast of Africa, for the suppression of the Slave-trade: the Commanders informed me that they had captured 8 Vessels bearing the French Flag, but that their observation and experience had convinced them of the inefficacy of the present system to suppress the traffick, and that this conviction was very general amongst the most intelligent English Residents on the Coast of Africa, with whom they had intercourse.

I shall forward a Copy of this Despatch to His Majesty's Minister at Rio de Janeiro.

(Signed) WM. PENNELL.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

No. 62.

*Mr. Consul Pennell to The Earl of Dudley.—(Received April 9, 1828.)*

MY LORD,

*Bahia, December 24, 1827.*

I HAVE the honour to enclose a Copy of my Letter of the 12th Instant, to the President of this Province, respecting the admeasurement of Slave-vessels, and particularly of the Brazilian Brig "*Tejo*," and also of his Replies of the 14th and 20th Instant.

By the Letter your Lordship will find, that he has determined to put the Order of His Imperial Majesty into effect on this subject, as communicated in a Portaria, dated 12th August 1824.

The President's decision gives me the greater satisfaction, as all my endeavours with his Predecessors to obtain this object were ineffectual, although they have been *frequent* and *urgent*, in consequence of the anxious desire entertained by Mr. Canning, for the correction of an abuse "so much at variance with the principles of humanity," as stated in his Despatch of the 16th March 1825, to His Majesty's Consul General.

The President told me, that his decision would create much ill-will towards him, but that he was determined not to be deterred from the execution of his duty, which, he thinks, consists, as regards this Question, in carrying into effect the Imperial Orders as expressed in the aforesaid Portaria.

I have this day had an interview with the Intendente da Marinha, (Commissioner of the Dock Yard,) who has assured me, that the new Regulation shall be faithfully carried into effect in his Department; the practical result of this alteration was manifested in the instance of a Vessel, called the



"Henriquetta," which was, under the Old System, allowed to carry 600 Slaves, but which, under the Portaria, would be allowed to carry only 490.

I feel persuaded of the sincerity of the President, and of the Intendente, in the assurances they have given me.

I shall forward a Copy of this Despatch to His Majesty's Minister at Rio de Janeiro.

I have the honour, &c.

(Signed)

WM. PENNELL.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

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First Enclosure in No. 62.

*Mr. Consul Pennell to The President of Bahia.*

SIR,

*Bahia, December 12, 1827.*

I HAVE the honour to call your Excellency's attention to the fact stated in the Publick Register, kept at the Arsenal, that the Brazilian Brig "*Tejo*," of 149 tons, arrived here on the 7th Instant, with 99 Slaves only, out of 422, of which her Cargo originally consisted; the number shipped exceeds by 50 Slaves what she was authorized to carry by her admeasurement, although that admeasurement admits of, a number greater than what is sanctioned by Treaty, and by the dictates of humanity, as appears by the Portaria of the 12th August 1824, adverted to in my Letter of the 30th July last to His Excellency the Vice-President, in which Portaria is also expressed the sentiments of indignation with which His Imperial Majesty reprobates such odious practices.

I have the honour, &c.

(Signed)

WM. PENNELL.

*His Excellency The President of Bahia,*  
 &c.                      &c.                      &c.

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Second Enclosure in No. 62.

(Translation.)

*The President of Bahia to Mr. Consul Pennell.*

*Palace of the Government of Bahia,*  
*December 14, 1827.*

MOST ILLUSTRIOUS SIR,

BEING entirely unacquainted with the nature of admeasurement of Tonnage of the Brazilian Vessels, which forms the object of your Letter, of date the 12th Instant, and wishing to acquire a true knowledge of the same, I have addressed the *Chefe de Divisao Intendente da Marinha*, in order that he may give me the necessary intelligence respecting the same, and further, that he inform me if the Portaria of the 12th of August 1824, from the Secretary of State's Office for Foreign Affairs, which regulated similar Admeasurements, has been duly attended to in this Province.

Which I communicate to you, Sir, in order that you may be assured that I do not treat with indifference affairs of this nature, and which demand equal interest in the Treaty concluded between the Governments of Brazil and Great Britain.

God preserve you.

(Signed)

JOZE EGIDIO GORDILHO DE BARBUDA.

*William Pennell, Esq.*

Third Enclosure in No. 62.

(Translation.)

*The President of Bahia to Mr. Consul Pennell.*

MOST ILLUSTRIOUS SIR,

*Palace of the Government of Bahia,  
December 20, 1827.*

IN consequence of your Letter of the 12th Instant, having consulted the *Chefe de Divisao Intendente da Marinha*, respecting the admeasurement of Tonnage, which in that Department is made on Vessels that proceed on the licit traffick of Slaves, it becomes me to inform you, that I have ordered the same Intendente that he put in effective execution the Portaria of the 12th of August 1824, as is therein resolved by His Majesty The Emperor.

In as much as respects the Admeasurement of the Brazilian Brig "*Tejo*," which formed the object of your aforesaid Letter, I am informed by the said Intendente, that her Admeasurement was not made here, it appearing only from the Registry of that Department, that she sailed from Cabinda for Rio de Janeiro, and put in here in distress, after 43 days' Voyage, with a Cargo of 99 Slaves.

God preserve you.

(Signed) JOZE EGIDIO GORDILHO DE BARBUDA.

*William Pennell, Esq.*

## No. 63.

*Mr. Consul Pennell to The Earl of Dudley.—(Received April 9.)*

MY LORD,

*Bahia, January 14, 1828.*

I HAVE the honour to enclose a Copy of my Despatch of the 10th Instant, to His Majesty's Minister at Rio de Janeiro, respecting a Vessel, called the "*Adelaide*," under Brazilian Colours, but of which French Subjects are supposed to be Part Owners.

I have the honour, &amp;c.

(Signed) WM. PENNELL.

*The Right Hon. The Earl of Dudley,*  
                   &c.                   &c.                   &c.

Enclosure in No. 63.

*Mr. Consul Pennell to The Right Hon. Robert Gordon.*

SIR,

*Bahia, January 10, 1828.*

I HAVE the honour to inform you, that a Vessel, called the "*Adelaide*," sailed on the 5th Instant, under Brazilian Colours, cleared out for the Coast of Africa on the Slave-trade.

The general belief is, that she is destined for the illicit commerce North of the Line, and that French Subjects are part Owners: under this belief the French Consul has deemed it his duty to refuse Passports to the French Subjects who have embarked on her as Passengers, and to report to his Government; observing however that there is no legal proof to be obtained to substantiate the facts.

It is a great satisfaction to me to remark, that although I have reason to believe that a participation in the Slave-trade, under the Brazilian Flag, promises great profit, and that overtures for this participation have not unfre-

quently been made by Brazilian Slave-traders to British Merchants, no instance, no suspicion even, has occurred that such overtures have ever been entertained by any of His Majesty's Subjects, within the period of my residence in this Province.

I have the honour, &c.

(Signed)

WM. PENNELL.

*The Right Hon. Robert Gordon,*  
&c. &c. &c.

No. 64.

*Mr. Consul Pennell to The Earl of Dudley.—(Received May 6.)*

MY LORD,

*Bahia, February 12, 1828.*

I HAVE the honour to enclose a Copy of my Despatch of the 8th Instant, to the President of this Province, respecting the excessive number of Slaves brought by the Brazilian Brig "*Felicidade*," and of his Reply of this date, stating that he had given such Instructions as the Case required.

I find that this Vessel was the subject of my Despatch to Mr. Canning of 16th June last.

I have, &c.

(Signed)

WM. PENNELL.

*The Right Hon. The Earl of Dudley,*  
&c. &c. &c.

First Enclosure in No. 64.

*Mr. Consul Pennell to The President of Bahia.*

SIR,

*Bahia, February 8, 1828.*

I HAVE the honour to state to your Excellency that, (as appears by the Register of the Port,) the Brazilian Brig "*Felicidade*" arrived here the 6th Instant, with a Cargo of 532 Slaves, stated to be from Cabinda.

I am informed that this Vessel was measured in Lisbon last Year, in 144 tons; she was afterwards measured here for the Slave-trade, and allowed to carry 505 Slaves, thereby encreasing the measurement to 202 tons.

It appears, therefore, that she received on board 27 Slaves more than her Passport allows, and 172 Slaves more than the Lisbon measurement would have justified, besides the number who may have died on the passage.

These facts violate the spirit of the Portaria of the 12th August 1824, which your Excellency has so justly determined to enforce, and I am persuaded it is only necessary to ascertain the truth of this statement, in order to induce your Excellency to adopt such measures as your sentiments will dictate, and the Laws authorize.

I have the honour, &c.

(Signed)

WM. PENNELL.

*His Excellency The President of Bahia.*

Second Enclosure in No. 64.

(Translation.)

*The President of Bahia to Mr. Consul Pennell.*

*Palace of the Government of Bahia,*  
*February 12, 1828.*

MOST ILLUSTRIOUS SIR,

YOUR Letter which you directed to me, under date of the 8th Instant, was duly received, respecting the Brazilian Brig "*Felicidade*," and the ex-

cessive number of Slaves brought in her, to which I have to reply, that as regards the 27 Slaves brought beyond those permitted by the Passport, I gave immediately the necessary directions, and as to the remainder of your Letter I agree with the Communication of the Intendente da Marinha, which was remitted to you in a Letter of the 7th August last Year.

God preserve you.

(Signed) JOZE EGIDIO GORDILHO DE BARBUDA.

*William Pennell, Esq.*

No. 65.

*Mr. Consul Pennell to The Earl of Dudley.—(Received May 6.)*

MY LORD,

*Bahia, February 14, 1828.*

WITH reference to my Despatch of the 24th December last, I have the honour to inform your Lordship, that I have had the satisfaction to see the Imperial Orders contained in the Portaria of the 12th August 1824, practically enforced, in the instance of the Brazilian Slave-vessel "*Tres Amigos*." She had been measured to carry 658 Slaves, which has been so far reduced, that her actual Passport granted on the 12th Instant, allows her to carry only 537, being a diminution of 121.

I shall forward to His Majesty's Minister at Rio de Janeiro, Copy of this Despatch, and of that of the 12th Instant, of this Series.

I have the honour, &c.

(Signed)

WM. PENNELL.

*The Right Hon. The Earl of Dudley,*  
           &c.           &c.           &c.

No. 66.

*Mr. Acting Consul Weiss to The Earl of Dudley.—(Received June 17.)*

MY LORD,

*Bahia, April 28, 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, addressed to Consul Pennell, of the 26th of December last, containing a List of 4 Brazilian Vessels, belonging to this Port, which had been boarded, under suspicious circumstances, by His Majesty's Brig "*Conflict*," at Lagos Bay, but which were found, on examination, to be furnished with Mercantile Passports. In obedience to your Lordship's commands, I have, without loss of time, made the necessary enquiries, the result of which I have now the honour to lay before your Lordship, transmitting Copies of my Correspondence with the President of this Province on this subject.

I have also the honour to inform your Lordship, that the "*General Almeida*," João Sabino, Master, was taken and destroyed by Pirates, on the Coast of Africa, as well as the "*Victoria*," Joze Maria Alvez, Master; that the "*Cooperador*," which, in the List transmitted to this Office, was mentioned erroneously under the name of "*Comprador*," has since been taken on the Coast of Africa by a British Cruizer, was carried into Sierra Leone, and released by His Majesty's Mixed Commission at that Colony; but that I have been unable to obtain any information of what became of her since, and that the "*Agua da Bahia*," Joaquim Gomez de Mello, Master, mentioned in your Lordship's List, under the name of "*Agoa da Bahia*," and which, as stated by

the President, had taken out a Passport for Slaves, has returned to this Port on the 9th of January last, with a Cargo of 149 Slaves, stated to come from Cabo Lopo; the Owner's name is Joaquim Joze Teixeira, a Merchant of this City.

I have, &c.

(Signed)

CHARLES G. WEISS.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

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First Enclosure in No. 66.

*Mr. Acting Consul Weiss to The President of Bahia.*

SIR,

*Bahia, April 16, 1828.*

HAVING received a Despatch from the Earl of Dudley, His Britannick Majesty's Secretary for Foreign Affairs, of the 26th of December last, with a Statement, forwarded to his Lordship by His Majesty's Commissioners at Sierra Leone, stating, under date of the 28th of September last, that the following 4 Vessels belonging to this Port, namely, the "*General Almeida*," "*Comprador*," "*Aguia da Bahia*," and "*Victoria*," had been boarded at the Port of Lagos, by Lieutenant Wakefield, of His Majesty's Brig "*Conflict*," under suspicious circumstances. I have the honour to request that your Excellency will be pleased to transmit to me a statement, with what Passports the abovementioned Vessels were furnished here when leaving this Port, and whether they had cleared out for the purpose of trading in Slaves, or for the object of trading in African produce only, and their respective dates.

I have, &c.

(Signed)

CHARLES G. WEISS.

*His Excellency the President of Bahia.*

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Second Enclosure in No. 66.

(Translation.)

*The President of Bahia to Mr. Acting Consul Weiss.*

SIR,

*Palace of Government of Bahia, April 19, 1828.*

HAVING received Yesterday the Letter which you had directed to me, under date of the 16th Instant, and by which you require a declaration, stating what Passports the following Vessels were furnished with, namely, the "*General Almeida*," "*Comprador*," "*Aguia da Bahia*," and "*Victoria*," stating, moreover, if these Vessels took Passports for trading in Slaves, or for trading in African produce only, and under what dates those Passports were given; and having immediately given orders that the necessary investigation should be proceeded in, by means of the Books of the Secretaria of this Government; it appears, 1st, that the Brig "*General Almeida*" took a Passport, dated February 17, 1827, to trade on the Coast of Mina (Gold Coast) in cloths and oil, and not in Slaves; 2d, That it does not appear that there exists any Vessel of the name of "*Comprador*," and much less that she obtained Despatches from this Government; 3d, It appears that the Schooner "*Aguia da Bahia*," on the 18th of May 1827, took a Passport (No. 15) for going to Cape Lopo, and there to trade in Slaves, being allowed to carry 280 of them; 4th, That, under the name of "*Victoria*," 2 Vessels were dispatched, viz. a Smack, on the 20th of February, with Passport No. 7, for Ambriz, by way of Lisbon, licensed to carry 292 Slaves; and on the 23d of the same Month and Year, a Schooner, of the name of "*Victoria*," taking out a Passport for

Coast of Mina, for the purpose of a licit trade in cloths and oil, and not in Slaves. This is what appears respecting the Vessels of which you make mention in your Letter.

God preserve you.

(Signed) JOZE EGIDIO GORDILHO DE BARBUDA.

*Mr. Charles G. Weiss.*

Third Enclosure in No. 66.

*Mr. Acting Consul Weiss to The President of Bahia.*

SIR,

*Bahia, April 22, 1828.*

I HAD the honour to receive your Excellency's Letter of the 19th Instant, and beg to express my due acknowledgments for the promptitude and exactness with which your Excellency has furnished the information requested for the British Government. In examining again the Papers received from the Foreign Office, it strikes me that the name of one of the four Vessels in question, has probably been misspelt, and that it ought to be "Cooperador," Manoel Feliciano de Souza, Master, instead of "Comprador," as stated in my Letter, I therefore have the honour to request your Excellency to order information to be given to me respecting this Vessel, stating what Passport she took, and the date of the same.

I have, &c.

(Signed) CHARLES G. WEISS.

*His Excellency The President of Bahia,*

Fourth Enclosure in No. 66.

(Translation.)

*The President of Bahia to Mr. Acting Consul Weiss.*

SIR,

*Palace of the Government of Bahia, April 26, 1828.*

IN conformity with the requisition which you make in your Letter of 22d Instant, I have ordered that the necessary investigation should be made respecting the Vessel "Cooperador," from which it appears, in fact, that a Passport was taken out on the 31st of January 1827, for the Coast of Mina, for a licit traffick, and not for trading in Slaves.

God preserve you.

(Signed) JOZE EGIDIO GORDILHO DE BARBUDA.

*Mr. Charles G. Weiss.*

No. 67.

*Mr. Consul Hesketh to The Earl of Dudley.—(Received May 11.)*

MY LORD,

*Consul's Office, Maranham, February 4, 1828.*

I HAVE the honour to transmit a Return of the Slaves imported during the Year 1827, into this Port; being a Copy of Reports made Half Yearly, on the subject, to His Majesty's Envoy at the Court of Rio de Janeiro.

I have, &c.

(Signed) ROBERT HESKETH.

*The Right Hon. The Earl of Dudley,*  
 &c. &c. &c.

Enclosure in No. 67.

*Return of Slaves imported into the Port of Maranham, during the Year ending 31st December 1827.*

Date of Arrival.	Description of Vessels.	NAME of VESSELS.	NAME of MASTERS.	Where from.	Slaves embarked.	Slaves died.	Slaves landed.	REMARKS.
1827.								
January 3	Schooner	Neptuno -	Antonio Severino d'Avellar -	Pernambuco -	20	"	20	This Vessel was under Portuguese Colours.
" "	Sumaca -	Pernambucana -	Ignacio Joze Barradors -	Do. -	20	"	20	
" 8	Do.	Conceição -	Francisco Bernardo de Mattos -	Para -	2	"	2	
" 16	Brig	Marquez de Nazareth -	Antonio dos Santos Rocha -	Rio de Janeiro -	2	"	2	
February 10	Do.	Aurora -	Francisco Feliciano da Silva -	Pernambuco -	77	"	77	{ These Slaves were evidently brought from the Bight of Biafra, but the Vessel brought regular Custom-House Clearances from Bahia,
" 22	Schooner	Imperatriz -	Thome Joaqua. Roiz Palavra -	Bahia -	134	"	134	
March 6	Do.	Nova Providencia -	Laurenzo Franco. Aleixo -	Do. -	3	"	3	
" 27	Brig	Neptuno -	Manoel de Souza Machado -	Angola -	272	23	249	
April 11	Do.	Activo -	Joze Pinto d'Aro. Vianna -	Ambris -	334	11	323	{
" 15	Do.	Anna Catherina -	Joao Joze Antunez -	Pernambuco -	5	"	5	
July 16	Schooner	Triunfo do Maranhao -	Joaquim Joze Soares -	Do. & Ceara -	12	"	12	
August 7	Do.	Senhora dos Prazeres -	Antonio Joaquim -	Ceara -	4	"	4	
Nov. 24	Ship	Sao Nicolao Augusto -	Joao Piacedo da Cruz -	Loanda -	426	12	414	Wrecked on the Coast off this Port.
" 27	Schooner	Amizade -	Christo. H. Andres -	Para -	2	"	2	
" 29	Brig	Lucrecia -	Joze Fortunato da Cunha -	Angola -	370	328	42	
Dec. 5	Do.	Conde de Escagnolle -	Joze Agostinho Vianna -	Ceara -	4	"	4	
" 24	Do.	Novo Mendengue -	Joao Gomes Velludo -	Rio de Janeiro -	3	"	3	{ Captured off the Port, by a Buenos Ayres Privateer.—The Crew were landed, and declared that the Slaves were originally from the Coast of Guinea.
" "	Do.	Provincia do Maranhao -	Joze Franco. -	Bahia -	227	"	"	
" "	Do.	Provincia do Maranhao -	Joze Franco. -	Bahia -	227	"	"	
" "	Do.	Provincia do Maranhao -	Joze Franco. -	Bahia -	227	"	"	
					1917	374	1316	

(Signed)

ROBERT HESKETH, His Britannick Majesty's Consul.

## No. 68.

*Mr. Consul Hesketh to The Earl of Dudley.—(Received July 16.)*

(Extract.)

*Consul's Office, Maranham, May 27, 1828.*

I HAD the honour to receive, on the 23d Instant, your Lordship's Despatch, dated December 26th 1827, transmitting an Extract of a Despatch from His Majesty's Commissioners at Sierra Leone, dated September 28th 1827, and a List of 4 Brazilian Vessels boarded by His Majesty's Brig "Conflict," and found trading at Lagos, on the Coast of Africa, with Mercantile Passports, under very suspicious circumstances.

None of the Vessels described in the List have arrived at this Port, nor are any of them reported from Pará, but I shall strictly attend to your Lordship's Instructions, should any of them eventually appear.

A Portuguese Brig arrived at this Port about 6 Weeks ago, in ballast, from Bahia, called the "*Vittoria*," but she is upwards of 200 tons burthen; the Master's name is Joze Pinto Vieira, and the Owner's, Roza Maria Conceição Silva, of Oporto, and it does not appear that this Vessel was on the Coast of Africa last Year.

(Signed) ROBERT HESKETH.

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.*

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## No. 69.

*Mr. Consul Parkinson to John Bidwell, Esq.—(Received Sept. 23.)*

SIR,

*Pernambuco, July 19, 1828.*

I HAVE the honour to acknowledge the receipt of the Earl of Dudley's Despatch, dated 26th December 1827, with its Enclosures, relating to "four Brazilian Vessels which were boarded in the Summer of 1827, by His Majesty's Brig "Conflict," at Lagos Bay, under suspicious circumstances."

I regret that I am not able to supply any information regarding the Vessels,—neither of them having visited this Port.

I have the honour, &c.

*John Bidwell, Esq.*  
*&c. &c. &c.*

(Signed) JOHN PARKINSON.

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## PORTUGAL.

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No. 70.

*The Earl of Dudley to Mr. Consul Goodwin.*

SIR,

*Foreign Office, May 24, 1828.*

I TRANSMIT to you herewith, for your information, Copies of the Treaties concluded between this Country and *Spain, Portugal, the Netherlands, Sweden, and Brazil*, for repressing illicit Traffick in Slaves.

I transmit to you likewise a Copy of the several Papers, which have been laid before Parliament, relating to the execution of those Treaties.

I have to desire, that you will transmit to me, any information which you may be able to obtain, respecting the carrying on of the Slave-trade, either by any of His Majesty's Subjects, or contrary to Treaty by the Subjects of Foreign Powers.

You will furnish to the Commanders of His Majesty's Ships upon the Coast, whatever intelligence you can procure, which may facilitate the execution of their Instructions under the Treaties,—and under the several Acts of Parliament, (Copies of which I also enclose to you), upon the subject of the Slave-trade.

You will forward to His Majesty's Commissioners at Sierra Leone, whatever accounts you may collect respecting the proceedings of Slave-traders.

I am, &c.

(Signed)

DUDLEY.

*Mr. Consul Goodwin, Cape Verd Islands.*

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## NETHERLANDS.

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No. 71.

*The Earl of Dudley to Sir Charles Bagot.*

SIR,

*Foreign Office, April 25, 1828.*

I HEREWITH transmit to your Excellency the Copy of a Despatch which I have received from Mr. Le Froy, His Majesty's Commissary Judge at Surinam, on the subject of the present condition of the Negroes who have been emancipated at Surinam, under the Treaty between Great Britain and the Netherlands, for the prevention of illegal Slave-trade.

I have to desire that you will communicate to the Netherland Government the information contained in Mr. Le Froy's Despatch, adding, on the part of His Majesty, the expression of His Majesty's perfect confidence, that His Netherland Majesty and his Government will not omit the necessary measures for securing to the unfortunate Persons concerned, the full benefit of the freedom stipulated for them by the Treaty in question.

I am, &c.

(Signed) DUDLEY.

*His Excellency Sir Charles Bagot, G.C.B.*  
                   &c.                   &c.                   &c.

No. 72.

*Sir Charles Bagot to The Earl of Dudley.—(Received May 5.)*

MY LORD,

*The Hague, April 29, 1828.*

I HAD the honour to receive last Night your Lordship's Despatch of the 25th Instant, transmitting to me a Copy of that addressed to Your Lordship, by Mr. Le Froy, His Majesty's Commissary Judge at Surinam, respecting the present condition and treatment in that Settlement of the Negroes who have been emancipated under the Convention with His Netherland Majesty, for the suppression of the illicit Traffick in Slaves.

I shall take an immediate opportunity of calling the attention of the Netherland Government to the information contained in that Despatch.

I have the honour to be, &c.

(Signed) CHARLES BAGOT.

*The Right Hon. The Earl of Dudley,*  
                   &c.                   &c.                   &c.

## No. 73.

*Sir Charles Bagot to The Earl of Dudley.—(Received May 6.)*

MY LORD,

*The Hague, May 2, 1828.*

I HAVE the honour to enclose to Your Lordship, herewith, a Copy of the Note which I addressed the day before yesterday to Baron Verstolk, transmitting to him a Copy of Mr. Le Froy's Letter to your Lordship, upon the subject of the treatment and condition in Surinam, of the Negroes who have been emancipated under the Convention with this Country, for the prevention of the Slave-trade.

I have the honour to be, &c

(Signed) CHARLES BAGOT.

*The Right Hon. The Earl of Dudley,*  
 &c.      &c.      &c.

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Enclosure in No. 73.

*Sir Charles Bagot to Baron Verstolk.*

*The Hague, April 30, 1828.*

THE Undersigned, His Britannick Majesty's Ambassador Extraordinary and Plenipotentiary, has the honour, by the direction of his Government, to transmit to His Excellency The Baron Verstolk de Soëlen, Minister of Foreign Affairs, the enclosed Copy of a Despatch, which has been addressed to the Earl of Dudley, by Mr. Le Froy, His Majesty's Commissary Judge at Surinam, upon the subject of the treatment, in that Settlement, of the Negroes, who have been emancipated there under the Treaty between the two Countries for the prevention and suppression of the illegal Traffick in Slaves.

M. Verstolk will not fail to observe that, according to the Representations made by Mr. Le Froy, these Negroes are certainly not at present placed in that situation which it was the object of the 6th Article of the Treaty to secure to them; and, in calling the earnest attention of His Excellency to this circumstance, the Undersigned is, at the same time, instructed to express to His Excellency the entire confidence of His Majesty's Government, that His Netherland Majesty will not delay to cause such directions to be given to the proper Authorities in Surinam, as may, in future, assure to this unfortunate class of persons, the full benefit of that freedom, which has been so solemnly stipulated for them, by the agreement in question.

The Undersigned, &c.

(Signed) CHARLES BAGOT.

*His Excellency The Baron Verstolk de Soëlen,*  
 &c.      &c.      &c.

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No. 74.

*Sir Charles Bagot to The Earl of Dudley.—(Received May 26.)*

MY LORD,

*The Hague, May 16, 1828.*

I HAVE the honour to transmit to your Lordship, herewith, the Copy of a Note, which I received Yesterday, from Monsieur de Verstolk, in reply

to that which I addressed to His Excellency, on the 30th of last Month, upon the subject of the present treatment and condition of the Free Negroes in Surinam.

I have the honour to be, &c.

(Signed) CHARLES BAGOT.

*The Right Hon. The Earl of Dudley,*  
 &c.                      &c.                      &c.

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Enclosure in No. 74.

*Baron Verstolk to Sir Charles Bagot.*

*La Haye, le 15 Mai 1828.*

LE Soussigné, Ministre des Affaires Etrangères, s'étant empressé de mettre sous les yeux du Roi, la Note que son Excellence Monsieur l'Ambassadeur, &c. de Sa Majesté Britannique, a bien voulu lui adresser le 30 Avril dernier, pour lui communiquer la Copie d'une Dépêche de M. Le Froy, Commissaire Juge de Sa Majesté Britannique à la Cour Mixte établie à Surinam, touchant le traitement des Nègres libres dans cette Colonie; le Ministre de la Marine et des Colonies, vient de demander d'après les Ordres de Sa Majesté, le Rapport de M. le Gouverneur de Surinam, sur le contenu de ces Pièces.

Le Soussigné, en faisant part de cette disposition à Monsieur l'Ambassadeur, a en même tems l'honneur de prévenir son Excellence, que Monsieur le Général Major Vanden Bosch, qui a été envoyé en qualité de Commissaire Général aux Possessions des Indes Occidentales des Pays Bas, a été spécialement chargé par ses Instructions, lors de son départ, de fixer son attention sur le sort des Nègres Libres; et en attendant, que le Soussigné puisse entrer à ce sujet dans de nouvelles explications avec son Excellence Sir Charles Bagot, il le prie d'agréer, &c.

(Signed) VERSTOLK DE SOELEN.

*Son Excellence Sir Charles Bagot,*  
 &c.                      &c.                      &c.

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(Translation.)

*The Hague, May 15, 1828.*

THE Undersigned, Minister for Foreign Affairs, having lost no time in laying before The King, the Note which His Excellency the Ambassador Extraordinary and Plenipotentiary of His Britannick Majesty had the goodness to address to him, on the 30th April last, in order to communicate to him a Copy of a Despatch from Mr. Le Froy, His Britannick Majesty's Commissary Judge of the Mixed Commission established at Surinam, respecting the treatment of Free Blacks in that Colony; the Minister of the Marine and of the Colonies has been directed by His Majesty to require from the Governor of Surinam, a Report on the contents of that Paper.

The Undersigned, in acquainting the British Ambassador of this step, has, at the same time, the honour to inform His Excellency, that Major General Vanden Bosch, sent in the character of Commissary General to the West India Possessions of the Netherlands, has been specially charged in the Instructions which he took with him, to devote his attention to the condition of the Free Blacks; and until the Undersigned shall be enabled to give further explanations upon this subject to His Excellency Sir Charles Bagot, he requests him to accept, &c.

(Signed) VERSTOLK DE SOELEN.

*His Excellency Sir Charles Bagot,*  
 &c.                      &c.                      &c.

No. 75.

*The Earl of Aberdeen to Sir Charles Bagot.*

SIR,

*Foreign Office, June 17, 1828.*

I HAVE to acquaint your Excellency, that a Communication has been received at this Office from the Admiralty, under date of the 19th of May, stating that the Instructions referred to in the Treaty between Great Britain and the *Netherlands*, for the suppression of illegal Slave-trade, have been issued to the following Ships and Vessels of His Majesty's Navy:—

Guns.	Ships.	Commanders.
48. ....	<i>Sybilie</i> .....	F. A. Collier.
46. ....	<i>Aurora</i> .....	C. J. Austen.
" .....	<i>Briton</i> .....	Hon. W. Gordon.
26. ....	<i>Eden</i> .....	W. F. W. Owen.
18. ....	<i>Espiegle</i> .....	W. Sandom.
10. ....	<i>Bustard</i> .....	G. S. Smith.
" .....	<i>Fairy</i> .....	J. O'Brien.
12. ....	<i>Clinker, G. B.</i> .....	Lt. G. W. Matson.
" .....	<i>Plumper</i> .....	N. Medley.
3. ....	<i>Black Joke, Tender,</i> ....	H. Downes.

And that the Instructions which had been issued to His Majesty's Ships "Druid," "Maidstone," "Atholl," "Brazen," "Esk," "Pylades," "Redwing," "Scylla," and "Conflict," have been recalled and cancelled.

I have to desire that your Excellency will communicate this information to the Government of His Netherland Majesty.

I am, &c.

*H. E. Sir Charles Bagot, G. C. B.*  
&c.      &c.      &c.

(Signed)

ABERDEEN.

No. 76.

*The Earl of Aberdeen to Sir Charles Bagot.*

SIR,

*Foreign Office, June 17, 1828.*

YOUR Excellency's Despatches of this Series of the Slave-trade, to the 16th Ultimo inclusive, the latter enclosing a Copy of the Note addressed to you on the 15th of May, by M. de Verstolk, have been duly received; and I have to desire, that you will express to the Netherland Minister, the satisfaction with which His Majesty's Government receive the assurance of the humane interest taken by His Netherland Majesty, in the welfare of the liberated Negroes under the administration of His Colonial Authorities.

I am, &c.

*H. E. Sir Charles Bagot, G. C. B.*  
&c.      &c.      &c.

(Signed)

ABERDEEN.

No. 77.

*Sir Charles Bagot to The Earl of Aberdeen.—(Received June 24.)*

MY LORD,

*The Hague, June 20, 1828.*

I HAD the honour to receive Yesterday your Lordship's Despatches of the 17th of this Month.

I have this Morning taken an opportunity of expressing to M. Verstolk, the satisfaction felt by His Majesty's Government, in the assurances given in His Excellency's Note to me of the 15th of last Month, in respect to the liberated Negroes in His Netherland Majesty's Colonies, and I, at the same time, delivered to him an Official Note of the names and force of His Majesty's Vessels, to which had been given the Instructions referred to in the Treaty between the two Countries, for the suppression of the Slave-trade.

I have the honour to be, &c.

(Signed)

CHARLES BAGOT.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

No. 78.

*Sir Charles Bagot to The Earl of Aberdeen.—(Received June 29.)*

MY LORD,

*The Hague, June 23, 1828.*

I HAVE the honour to transmit to your Lordship herewith, the Copy of a Note which I received Yesterday from the Minister of Foreign Affairs, in acknowledgment of that which I addressed to him 3 days ago, notifying the names of His Majesty's Ships and Vessels, to which the Instructions referred to in the Treaty of the 4th of May 1818, had been given.

I have the honour to be, &c.

(Signed)

CHARLES BAGOT.

*The Right Hon. The Earl of Aberdeen,*  
&c. &c. &c.

Enclosure in No. 78.

*Baron Verstolk to Sir Charles Bagot.*

*La Haye, le 21 Juin 1828.*

LE Soussigné, Ministre des Affaires Etrangères, a l'honneur de remercier Son Excellence Sir Charles Bagot, Ambassadeur, &c. pour la Communication qu'elle a bien voulu lui faire, par sa Note du 20 de ce Mois, touchant les mutations qui ont eu lieu, par rapport aux Vaisseaux de Sa dite Majesté, autorisés à veiller à la répression de la Traite illicite des Nègres, en vertu des stipulations du Traité, en date du 4 Mai 1818.

(Signed)

VERSTOLK DE SOELEN.

*Son Excellence Sir C. Bagot,*  
&c. &c. &c.

(Translation.)

*The Hague, June 21, 1828.*

THE Undersigned, Minister for Foreign Affairs, has the honour to thank His Excellency Sir Charles Bagot, &c. for the Communication which he has been so good as to address to the Undersigned, in his Note of the 20th Instant, respecting the alterations which have taken place in regard to the Vessels of His said Majesty, authorized to watch over the repression of the illicit Traffick in Negroes, pursuant to the stipulations of the Treaty, dated May 4, 1818.

The Undersigned avails himself, &c.

(Signed)

VERSTOLK DE SOELEN.

*His Excellency Sir Charles Bagot,*  
&c. &c. &c.

No. 79.

*Sir Charles Bagot to The Earl of Aberdeen.—(Received August 4.)*

MY LORD,

*The Hague, July 28, 1828.*

I HAD the honour to receive Yesterday Morning, your Lordship's Despatch of the 9th of this Month, enclosing to me printed Copies of the Papers, which have been laid before the two Houses of Parliament, in the course of the present Session, relative to the Slave-trade.

I have the honour to be, &c.

(Signed)

CHARLES BAGOT.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

FRANCE.

No. 80.

*The Earl of Dudley to Viscount Granville.*

MY LORD,

*Foreign Office, January 25, 1828.*

IN reference to former Correspondence between the Secretary of State and your Excellency, on the subject of the Trade in Slaves, carried on under the Flag of France; I transmit to your Excellency, for communication to the Government of His Most Christian Majesty, the Copy of a Paper, which I have received from His Royal Highness the Lord High Admiral, containing a List of French Slave-vessels which have been spoken with by His Majesty's Squadron on the African Station, between the 1st of June and the 14th of December 1827.

I am, &c.

(Signed)

DUDLEY.

*His Excellency Lord Granville, G. C. B.*  
 &c.                      &c.                      &c.

Enclosure in No. 80.

*John Barrow, Esq. to John Backhouse, Esq.*

SIR,

*Admiralty Office, January 19, 1828.*

I AM commanded by His Royal Highness the Lord High Admiral to transmit to you, for the information of the Earl of Dudley, a List of French Slave-vessels spoken by His Majesty's Squadron on the African Station, between the 1st of June, and the 14th of December last.

I am, &c.

(Signed)

JOHN BARROW.

*John Backhouse, Esq.*  
 &c.                      &c.                      &c.

## Sub-Enclosure in No. 80.

*List of French Slave-vessels boarded by the British Squadron employed on the Western Coast of Africa, between the 1st of June and the 14th of December 1827.*

Boarded		Name of the			Rig.	Number of			Where.			Under what Colours.	Cargo.	REMARKS.
By what Ship.	When.	Where.	Vessel.	Master.		Men.	Guns.	Tons.	From.	Bound.	Belonging.			
Sybille - -	1827. June	Lat. 12 4. 14. N.   Long. 8. 44. W.	La Fortunée -	Dulescourt - -	Schooner	14		63	{ Garraway, } 8 Grain Coast	Along the Coast	Martinique	French -	{ Bullocks, } Rice, &c.	Fitted for Slaves.
Clinker - -	"	15 Old Calabar River.	Fanny - -	Le Land.	"	19	1	120	16 Martinique -	Guadaloupe -	Guadaloupe	"	281 Slaves	
Esk - - -	"	28 Off St. Thomas	Louise - -	A. Gorée - -	Brig -	28	4	141	20 River Bonny -	"	Martinique	"	365 "	
"	July	Do.	Le Bavarrois -	{ A. Ichamean, } late Durand	"	12	6	132	River Brass -	"	Nantz -	"	248 "	
Clinker - -	"	22 River Gaboon -	Sophie - -	G. Griffe.	Schooner	17	2	48	Guadaloupe -	Rio Janeiro -	Guadaloupe	"	{ Tobacco } and Rum	Said to be trading for Palm Oil, but evidently fitted for Slaves.
"	"	Do.	Ceophaines -	J. Peirce.	"	19	2	60	"	"	"	"	General -	Ditto.
Sybille - -	September	33. 7. N.   4. 28. E.	André Audrienne	Vergneante - -	Brig -	19	2	148	30 River Bonny -	Martinique -	Martinique	"	308 Slaves	
Esk - - -	"	17 3. 32. N.   6. 3. E.	Henriette - -	Bonnefere.	"	21	3	190	"	"	St. Maloes	"	400 "	{ Was only 8 days in } the River Bonny.
North Star -	August	14 Porto Praya - -	Le Valentin -	Picento - - -	Cutter -	14		50	10 Bonavista - -	Gorée - - -	Gorée -	"	Rice	
"	October	10 Off Little Bassam	La Melaine -	Wm. Allain - -	Schooner	16	2	69	13 Guadaloupe -	Trading Voyage	Guadaloupe	"	{ Rum and } Gunpowder - -	Fitted for Slaves.
"	"	11 Timbo - - -	Victoire - -	Dubedot - - -	"	18		78	1 August 1	Coast of Africa	"	"	"	{ Do.—They are nearly } ready at the Gallies.
"	December	4 Cape Mount - -	Flora - - -	J. Dours - - -	"		1	82	11 St. Bartholomew	Cape Coast -	Martinique	"	Ballast -	

(Signed)

F. A. COLLIER, Commodore.



## No. 81.

*The Earl of Dudley to Viscount Granville.*

MY LORD,

Foreign Office, February 2, 1828.

IN addition to the specifick information contained in my Despatch to your Excellency, of this Series of the Slave-trade, dated the 25th Ultimo, I have further to transmit to your Excellency, the accompanying Copy of a Communication, which has recently been addressed to the Secretary to the Admiralty, from Sir F. A. Collier, in which it is alleged, "that the Slave-trade between the Gambia and Cape Palmas, is carried on solely almost under the French Flag."

I am, &amp;c.

(Signed)

DUDLEY.

His Excellency Viscount Granville, G. C. B.

&amp;c.

&amp;c.

&amp;c.

Enclosure in No. 81.

*Commodore Collier to J. W. Croker, Esq.**His Majesty's Ship "Sybille,"**Princes Island, October 29, 1827.*

SIR,

IN reply to your Letter of the 14th of August 1827, enclosing Extracts of a Despatch addressed by the Governor of Sierra Leone, to Earl Bathurst, respecting the increase of the Slave-trade on the Coasts adjacent to that Colony;

I have to state to you, for the information of His Royal Highness the Lord High Admiral, that since I have had the honour of being entrusted with the command on this Station, I have placed the Squadron along this long line of Coast for the suppression of the Slave-trade, to the best of my humble abilities, bearing in mind the Instructions I received from the Admiralty, respecting the preservation of the health of the Squadron, in keeping them as much as possible out of the rains, which, from the sick returns, will prove I trust satisfactory to His Royal Highness.

His Excellency the Governor of Sierra Leone recommends, that a Man-of-War should be *constantly stationed* at the Isles de Loss, and cruizing on the adjacent Coast: were his suggestion to be adopted during the rainy season, I am perfectly convinced the Vessel placed there would lose two-thirds of her Crew, and in appropriating one Vessel entirely to that service, I should be obliged to neglect, in my humble opinion, more important points, as I feel confident in stating, that where 5 Slaves are embarked from the vicinity of the Isles de Loss and Sierra Leone, 200 are shipped from the Bights of Benin and Biafra: and I have likewise further to state, that the Slave-trade between the Gambia and Cape Palmas, is carried on solely almost under the French Flag. I have heard but of 1 Spanish Vessel that has been on that line of Coast, and of no other Flag but French.

From Portendic to Cape Mount, the "North Star" has been stationed since Commodore Bullen left this, visiting the different Rivers according to the Seasons. In September she was at the Isles de Loss, and cruizing in that neighbourhood, when Captain Arabin, at the requisition of the Governor of Sierra Leone, left that Station, and has proceeded with a Company of Troops to the River Gambia.

I trust this explanation will meet His Royal Highness the Lord High Admiral's approbation, and have, &c.

(Signed)

F. A. COLLIER, Commodore.

J. W. Croker, Esq.

&amp;c. &amp;c. &amp;c.

## Sub-Enclosure in No. 80.

*List of French Slave-vessels boarded by the British Squadron employed on the Western Coast of Africa, between the 1st of June and the 14th of December 1827.*

Boarded			Name of the			Rig.	Number of			Where.			Under what Colours.	Cargo.	REMARKS.
By what Ship.	When.	Where.	Vessel.	Master.	Owner.		Men.	Guns.	Tons.	When sailed.	From.	Bound.			
Sybilie - -	1827. June	Lat. Long. 12 4. 14. N.   8. 44. W.	La Fortunée -	Dulescourt - -	- -	Schooner	14		63	1827. June 8	{ Garraway, } Grain Coast	Along the Coast	Martinique	{ Bullocks, } Rice, &c.	Fitted for Slaves.
Clinker - -	"	15 Old Calabar River.	Fanny - -	- -	Le Land.	"	19	1	120	" 16	Martinique	Guadaloupe	Guadaloupe	281 Slaves	"
Esk - -	"	28 Off St. Thomas	Louise - -	- -	A. Gorée - -	Brig -	28	4	141	" 20	River Bonny	"	Martinique	366 "	"
"	July	Do.	Le Bavarrois -	- -	{ A. Ichaumean, } late Durand	"	12	6	132		River Brass	"	Nantz -	248 "	"
Clinker - -	"	22 River Gaboon	Sophie - -	- -	G. Griffe.	Schooner	17	2	48		Guadaloupe	Rio Janeiro	Guadaloupe	{ Tobacco } and Rum	Said to be trading for Palm Oil, but evidently fitted for Slaves.
"	"	Do.	Ceophaines -	- -	J. Peirce.	"	19	2	60	July 2	"	"	"	General -	Ditto.
Sybilie - -	September	33. 7. N.   4. 28. E.	André Audrienne	Vergneante - -	- -	Brig -	19	2	148	August 30	River Bonny	Martinique	Martinique	308 Slaves	"
Esk - -	"	17 3. 32. N.   6. 3. E.	Henriette - -	- -	Bonnefere.	"	21	3	190	Sept. 9	"	"	St. Maloes	400 "	{ Was only 8 days in } the River Bonny.
North Star -	August	14 Porto Praya - -	Le Valentin -	- -	Valentine	Cutter -	14		50	August 10	Bonavista - -	Goree - -	Goree -	Rice	"
"	October	10 Off Little Bassam	La McLaine -	- -	F. Flink	Schooner	16	2	69	June 13	Guadaloupe	Trading Voyage	Guadaloupe	{ Rum and } Gunpowder - -	Fitted for Slaves.
"	"	11 Timbo - -	Victoire - -	- -	Dubedot - -	"	18		78	August 1	"	Coast of Africa	"	"	"
"	December	4 Cape Mount - -	Flora - -	- -	J. Dauris - -	"		1	82	Sept. 11	St. Bartholomew	Cape Coast	Martinique	Ballast -	{ Do.—They are nearly } ready at the Gallinas.

(Signed)

F. A. COLLIER, Commodore.

## No. 81.

*The Earl of Dudley to Viscount Granville.*

MY LORD,

*Foreign Office, February 2, 1828.*

IN addition to the specifick information contained in my Despatch to your Excellency, of this Series of the Slave-trade, dated the 25th Ultimo, I have further to transmit to your Excellency, the accompanying Copy of a Communication, which has recently been addressed to the Secretary to the Admiralty, from Sir F. A. Collier, in which it is alleged, "that the Slave-trade between the Gambia and Cape Palmas, is carried on solely almost under the French Flag."

I am, &amp;c.

(Signed)

DUDLEY.

*His Excellency Viscount Granville, G. C. B.*

&amp;c.

&amp;c.

&amp;c.

Enclosure in No. 81.

*Commodore Collier to J. W. Croker, Esq.**His Majesty's Ship "Sybille,"**Princes Island, October 29, 1827.*

SIR,

IN reply to your Letter of the 14th of August 1827, enclosing Extracts of a Despatch addressed by the Governor of Sierra Leone, to Earl Bathurst, respecting the increase of the Slave-trade on the Coasts adjacent to that Colony;

I have to state to you, for the information of His Royal Highness the Lord High Admiral, that since I have had the honour of being entrusted with the command on this Station, I have placed the Squadron along this *long line* of Coast for the suppression of the Slave-trade, to the best of my humble abilities, bearing in mind the Instructions I received from the Admiralty, respecting the preservation of the health of the Squadron, in keeping them as much as possible out of the rains, which, from the sick returns, will prove I trust satisfactory to His Royal Highness.

His Excellency the Governor of Sierra Leone recommends, that a Man-of-War should be *constantly stationed* at the Isles de Loss, and cruizing on the adjacent Coast: were his suggestion to be adopted during the rainy season, I am perfectly convinced the Vessel placed there would lose two-thirds of her Crew, and in appropriating one Vessel entirely to that service, I should be obliged to neglect, in my humble opinion, more important points, as I feel confident in stating, that where 5 Slaves are embarked from the vicinity of the Isles de Loss and Sierra Leone, 200 are shipped from the Bights of Benin and Biafra: and I have likewise further to state, that the Slave-trade between the Gambia and Cape Palmas, is carried on solely almost under the French Flag. I have heard but of 1 Spanish Vessel that has been on that line of Coast, and of no other Flag but French.

From Portendic to Cape Mount, the "North Star" has been stationed since Commodore Bullen left this, visiting the different Rivers according to the Seasons. In September she was at the Isles de Loss, and cruizing in that neighbourhood, when Captain Arabin, at the requisition of the Governor of Sierra Leone, left that Station, and has proceeded with a Company of Troops to the River Gambia.

I trust this explanation will meet His Royal Highness the Lord High Admiral's approbation, and have, &c.

(Signed)

F. A. COLLIER, Commodore.

*J. W. Croker, Esq.*

&amp;c. &amp;c. &amp;c.

**No. 82.**

*Viscount Granville to The Earl of Dudley.—(Received February 4.)*

MY LORD,

*Paris, February 1, 1828.*

**I HAVE** the honour to acknowledge the receipt of your Lordship's Despatch, marked Slave-trade, dated the 25th Ultimo, and I lost no time in transmitting to the Comte de la Ferronnays, the List therein enclosed, of French Slave-vessels which have been spoken with by His Majesty's Squadron on the African Station, between the 1st of June and the 14th December 1827.

**I have, &c.**

*The Right Hon. The Earl of Dudley,* (Signed) GRANVILLE.  
*&c. &c. &c.*

No. 83.

*Viscount Granville to The Earl of Dudley.—(Received February 11.)*

MY LORD,

*Paris, February 8, 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, marked Slave-trade, dated the 2d Instant, and I have in consequence addressed a Note to M. le Comte de la Ferronnays, on the subject of it.

**I have, &c.**

*The Right Hon. The Earl of Dudley,*  
*&c. &c. &c.* (Signed) GRANVILLE.

No. 84.

*Viscount Granville to The Earl of Dudley.—(Received February 18.)*

MY LORD,

*Paris, February 15, 1828.*

I HAVE the honour to enclose a Copy of the Answer which I have received from the Comte de la Ferronnays, in reply to a Note which I had addressed to His Excellency, enclosing a List of French Vessels, suspected of Slave dealing on the Coast of Africa.

I have the honour to be, &c.

*The Right Hon. The Earl of Dudley,* (Signed) GRANVILLE.  
 &c. &c. &c.

**Enclosure in No. 84.**

*The Comte de la Ferronnays to Viscount Granville.*

MONSIEUR L'AMBASSADEUR.

*Paris, le Février 1828.*

**J'AI** reçu avec la Lettre que votre Excellence m'a fait l'honneur de m'écrire, la Note qui l'accompagnait relative à plusieurs Navires sous Pavillon Français, soupçonnés de faire la Traite des Noirs, sur la Côte Occidentale d'Afrique. Je l'ai transmise immédiatement au Ministre de la Marine avec invitation de

prendre des informations et d'ordonner, dans le cas où elles confirmeraient les faits, les poursuites nécessaires contre les Auteurs de ces coupables spéculations.

J'ai l'honneur d'être, &c.

(Signed) COMTE DE LA FERRONNAYS.

*Son Excellence l'Ambassadeur d'Angleterre,*  
 &c.                      &c.                      &c.

(Translation.)

MY LORD,

*Paris, February , 1828.*

I HAVE received the Letter which your Excellency did me the honour to write to me, and also the Note which accompanied it, relative to several Ships, under French Colours, suspected of carrying on the Slave-trade, on the Western Coast of Africa. I immediately transmitted them to the Minister of Marine, requesting him to institute enquiries; and, in the event of the facts being confirmed, to direct the necessary prosecutions to be commenced against the Authors of those culpable speculations.

I have the honour, &c.

(Signed) COMTE DE LA FERRONNAYS.

*His Excellency the Ambassador of England,*  
 &c.                      &c.                      &c.

No. 85.

*The Earl of Aberdeen to Viscount Granville.*

MY LORD,

*Foreign Office, June 17, 1828.*

WITH reference to the Despatch from Mr. Secretary Canning, marked Slave-trade, and dated October 27, 1825, and to your Excellency's Despatch, marked Slave-trade, and dated November 10th in the same Year, on the subject of certain Slaves clandestinely and illegally conveyed from the Island of Mauritius to that of Bourbon; I herewith transmit to Your Excellency the Copy of a Letter from Sir Lowry Cole, accompanied with an Abstract from the French Paper, the "Quotidienne," of the 28th May 1827, containing the Decision of the Court of Cassation in the Case of the Slaves in question; and I am desirous, that you will press the French Minister for an Answer to the Representation which you addressed to him upon this subject, in November 1825.

Your Excellency will, at the same time, intimate to the French Minister, that the Case is considered to be one of very great importance to the interests of the Mauritius; it being the opinion of the Local Authorities of that Island, that so long as the Courts of Bourbon act upon the principle by which they appear to have been guided in the present instance, so long will persons be induced to carry on a speculation in the illegal Traffick in Slaves, in consequence of the high price obtained for Slaves at Bourbon, in comparison to that for which they can be disposed of at the first mentioned Island.

I am, &c.

(Signed) ABERDEEN.

*His Excellency Viscount Granville, G. C. B.*  
 &c.                      &c.                      &c.

Enclosure in No. 85.

*Sir Lowry Cole to R. W. Hay, Esq.*

SIR,

*Mauritius, January 10, 1828.*

ALTHOUGH you will probably have been apprized of the circumstances, by means of our Ambassador at the Court of Paris, yet I cannot help enclosing to you an Extract from the *Quotidienne*, of the 28th May 1827, which contains the Decision of the Court of Cassation, in the Case of M. Calmet's Slaves, who, as reported in my Despatch to Earl Bathurst, had been clandestinely removed from Mauritius to Bourbon.

It is not for me to make any observation upon the decision of the Court of Cassation; but, as it may have an injurious effect as regards the interests of this Colony, I think it right to request that you will bring the subject to Mr. Huskisson's notice. I have, &c.

*R. W. Hay, Esq.*  
&c. &c. &c.

(Signed) J. LOWRY COLE.

Sub-Enclosure in No. 85.

*Decision of the Court of Cassation in Paris, in the Case of certain Slaves, clandestinely and illegally removed from the Mauritius to Bourbon.*

LA Cour de Cassation (Section Criminelle) s'est occupée hier et avant hier d'une question relative à la Traite des Noirs. Les Sieurs Imbert, Germeil-Chauvet, et Robin, Frères, Capitaine et Armateurs du Navire "*La Marie*," avoient subi devant le Conseil de Révision de l'Isle Bourbon, un Arrêt d'après lequel le Sieur Imbert fut interdit de tout commandement, et le Navire fut confisqué ainsi que sa Cargaison. Le motif de cette Sentence, rendue le 21 Mars 1825, était que "*La Marie*," avait été employée, *sans autorisation*, à transporter des Nègres de L'Isle Maurice à L'Isle Bourbon.

Le Pourvoi des condamnés a été soutenu par leurs Avocats, qui ont développé quatre moyens; la Cour Suprême a repoussé les deux premiers; le troisième résultoit de la violation des Articles 73, 74, et 75 du Code d'Instruction Criminelle, en ce que l'Arrêt attaqué avoit rejeté, sans en donner les motifs, l'Appel incident que les exposans avoient interjeté, de la disposition qui avoit statué sur l'irrégularité par eux prétendue des enquêtes produites dans la Cause. Le quatrième étoit pris de la fausse application de la Loi du 21 Avril 1818, sur ce que les faits déclarés constans, par l'Arrêt, n'établissaient en aucune manière le délit de Traite des Noirs.

La Cour de Cassation a accueilli ces deux derniers moyens, attendu qu'il ne résulte pas de l'Arrêt attaqué que les Noirs introduits à Bourbon fussent des Noirs de Traite, comme il n'y avoit dans le transport, ni crime, ni délit, a cassé cet Arrêt sans renvoi, conformément à l'Article 429 du Code.

(Translation.)

THE Court of Cassation (Criminal Section) was Yesterday, and the day before, occupied with a question relating to the Slave-trade; in the Case of Messrs. Imbert, Germeil-Chauvet, and Robin, Brothers, Master and Owners of the Vessel "*La Marie*," who had had pronounced against them by the Council of Revision, in the Isle of Bourbon, a Decree, according to which Mr. Imbert was deprived of his command, and the Vessel and Cargo confiscated. The ground of this Sentence, given on the 21st March 1825, was,

that "*La Marie*," had been employed, *without authority, in carrying Negroes from the Mauritius to the Isle of Bourbon.*

The Appeal of the Defendants was conducted by their Counsel, who insisted upon four points of law. The two first were rejected by the Supreme Court. The third was grounded on a violation of Articles 73, 74, and 75, of the Code of Criminal Instruction, inasmuch as the Decree in question had, without assigning the reason, refused the Appeal interposed by the Defendants against the Award, disallowing of the irregularity alleged by them of the enquiries set on foot in the Cause. The fourth turned on the misapplication of the Law of the 21st April 1818, it being contended that the facts, which the Decree had declared to be substantiated, did not at all establish the crime of the traffick in Slaves.

The Court of Cassation entertained the two last points, seeing that it cannot be inferred from the contested Decree, that the Blacks imported into Bourbon were intended *for sale*; and as the mere *carrying* was neither a *crime* nor a *misdeemeanour*, the Court reversed the Decree, without Appeal, conformably to Article 429 of the Code.

## No. 86.

*Viscount Granville to The Earl of Aberdeen.—(Received June 22.)*

MY LORD,

Paris, June 20, 1828.

I HAVE the honour to acknowledge your Lordship's Despatch, marked *Slave-trade*, dated the 17th Instant, enclosing a Despatch from Sir L. Cole, and referring to a former Despatch of mine, on the subject of certain Slaves clandestinely and illegally conveyed from the Island of Mauritius to that of Bourbon; and I shall, without delay, address to the French Government the Representation which Your Lordship points out.

I have the honour to be, &c.

(Signed)

GRANVILLE.

The Right Hon. The Earl of Aberdeen,  
&c. &c. &c.

## No. 87.

*Lord Stuart de Rothsay to The Earl of Aberdeen.—(Received July 28.)*

MY LORD,

Paris, July 25, 1828.

THE Article in the *Moniteur*, of which I enclose a Copy, announces that His Most Christian Majesty's Cruizers have detained and captured three French Vessels, illegally employed in the Slave-trade.

I have the honour to be, &c.

(Signed)

STUART DE ROTHESAY.

The Right Hon. The Earl of Aberdeen,  
&c. &c. &c.

Enclosure in No. 87.

*Article respecting the Capture of French Vessels engaged in the Slave-trade.*

TROIS Bâtimens ont été capturés par la Station Française à la Côte Occidentale d'Afrique, comme étant employés à la Traite des Noirs dans ces parages.

Un de ces Bâtimens (le Brick le *Lévrier*), est entré récemment à Brest.  
 Le second (le Brick l'*Eclair*), est attendu dans le même Port.  
 Le troisième, ayant à bord quelques Noirs, a été dirigé sur la Guiane Française.

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(Translation.)

THREE Ships have been captured by the French Ships, stationed on the Western Coast of Africa, as being employed in the Slave-trade in that Quarter.

One of these Ships (the Brig *le Levrier*), has recently arrived at Brest.

The second, (the Brig *l'Eclair*), is expected in the same Port.

The third, having some Negroes on board, has steered towards French Guiana.

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No. 88.

*Lord Stuart de Rothesay to The Earl of Aberdeen.—(Received August 25.)*

MY LORD,

*Paris, August 22, 1828.*

I HAVE the honour to enclose the accompanying Article in the French Official Paper, announcing the condemnation of a Vessel by the French Colonial Tribunal, under the enactments for the abolition of the Slave-trade.

I have the honour to be, &c.

(Signed)

STUART DE ROTHESAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

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Enclosure in No. 88.

*Article relative to the condemnation of the French Slave-vessel,*  
*"Le Céron."*

LA saisie du Navire Français "*le Céron*," ayant eu lieu pour motif de contravention à la Loi du 15 Avril 1818, relative à la répression de la Traite des Noirs, la confiscation de ce Bâtiment a été prononcée par Jugement du Tribunal de Première Instance du Fort-Royal, rendu le 12 Mai dernier, et devenu définitif.

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(Translation.)

THE seizure of the French Ship "*le Céron*," having taken place, on account of the infraction of the Law of the 15th April 1818, relative to the repression of the Slave-trade, the confiscation of that Ship was pronounced by a Judgment of the Tribunal of the First Instance at Fort-Royal, of the 12th of last May, and has become definitive.



No. 89.

*The Earl of Aberdeen to Lord Stuart de Rothesay.*

MY LORD,

*Foreign Office, August 30, 1828.*

I TRANSMIT herewith to your Excellency, the Copy of a Communication which has been received at this Office from the Admiralty, containing a List of 8 French Slave-vessels, which were boarded by the British Squadron on the Coast of Africa, between the 1st of January and the 14th of May last.

Your Excellency will communicate this Paper to the Government of His Most Christian Majesty, drawing their attention to the further proof which it furnishes, of the prevalence of the Slave-trade under the French Flag on the Coast of Africa.

I am, &amp;c.

(Signed)

ABERDEEN.

*His Excellency Lord Stuart de Rothesay, G. C. B.*  
 &c.                      &c.                      &c.

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Enclosure in No. 89.

*J. W. Croker, Esq. to John Backhouse, Esq.*

SIR,

*Admiralty Office, July 12, 1828.*

I AM commanded by His Royal Highness the Lord High Admiral, to transmit to you, for the information of the Earl of Aberdeen, a List of French Slave-vessels, boarded by the Squadron on the Coast of Africa, between the 1st of January and 14th of May last.

I am, &amp;c.

(Signed)

J. W. CROKER.

*John Backhouse, Esq.*  
 &c.    &c.    &c.

## Sub-Enclosure in No. 89.

*List of French Slave Vessels, boarded by the British Squadron employed on the Western Coast of Africa, between the 1st of January and the 14th of May, 1828.*

Ships boarded by.	When.	Where. Lat. Long.	VESSEL.	MASTER.	OWNER.	Rig.	Men.	Guns.	Tons.	When Sailed.	From	Where bound.	Belonging	Colours.	Cargo.	REMARKS.
Black Joke	1828. Feb. 5,	Cape Mount	Africaine	M. Silvia	J. Carmichael	Brig	15	4	116	Dec. 7, 1827	Nantz	Mesurado	Nantz	French	{ Camwood & Ivory }	On a Trading Voyage.
Do.	" 13,	5.54.N.   10.16.W.	La Jeanie	M. Jaurie	J. Harris	Schooner	16		64	Nov. 30, "	Guadaloupe	Princes Island	Guadaloupe	"	Sundries	Fitted for Slaves.
North Star	" 24,	Off Cape Lopez	Edward	Dauthon	F. Valois	Brig	16	4	164	June 10, "	Nantz	Coast of Africa	Nantz	"	Ballast	
Sybille	Mar. 19,	2.58.N.   5. 4. E.	Fanny	J. Constantin	{ Barrouffe & Lavallere }	Schooner	21	1	116	Mar. 14, 1828	R. Calabar	Guadaloupe	Guadaloupe	"	282 Slaves	{ Detained and sent to Sierra Leone, by the Sybille, having found Dutch Co-lours on board. She has made 3 Voyages to the Coast, and cleared out from St. Jago de Cuba. }
Black Joke	" 31,	1.21.N.   6.43.E.	L'Emilie	M. Souze	M. Souze	Brig	11	2	130	Jan. 29, "	Havre	Princes	Havre	"	General	
Sybille	" "	Off Princes	La Dauphine	M. Douillé	J. M. Laune	"	20	4	94	Mar. 13, "	R. St. John	Martinique	Martinique	"	214 Slaves	
Clinker	Feb. 2,	River Gaboon	Edward	W. Dauthon	S. John	"	8	4	175		Princes Island	Nantz	Nantz	"	Coffee	Trading for Ivory.
Do.	Mar. 18,	At Sea	African	J. Gabetis	C. Carmichael	"	15	6	116		Nantz	Gaboon	"	"	General	

(Signed) F. A. COLLIER, Commodore.

No. 90.

*Lord Stuart de Rothesay to The Earl of Aberdeen.—(Received Sept. 18.)*

MY LORD,

Paris, September 15, 1828.

IN obedience to the directions contained in your Lordship's Despatch of the 30th Ultimo, I carried to the knowledge of the French Government, the List of Vessels which have been seen by His Majesty's Ships of War, carrying on the Slave-trade under the French Flag, together with the Note of which I enclose a Copy; I forward the Answer which I received the day before Yesterday.

I have the honour to be, &amp;c.

(Signed)

STUART DE ROTHESAY.

*The Right Hon. The Earl of Aberdeen,*  
 &c. &c. &c.

First Enclosure in No. 90.

*Lord Stuart de Rothesay to M. de Rayneval.*

SIR,

Paris, September 6, 1828.

THE Reports transmitted to His Majesty's Government, by the Officers in command of the Naval Station on the Coast of Africa, offer undoubted proofs of the continuation of the Slave-trade, and I regret that the Flag of France appears in various instances to have been assumed by the Persons engaged in such undertakings.

The enclosed List of Vessels under the French Flag, engaged in this commerce, which have been boarded by His Majesty's Ships, may facilitate the efforts of His Most Christian Majesty's Government, to enforce their Regulations for the suppression of this trade, and offers the best proof of the desire of my Court, to concur cordially in every measure which can facilitate their endeavours to obtain that object.

(Signed)

STUART DE ROTHESAY.

*Mons. de Rayneval,*  
 &c. &c. &c.

Second Enclosure in No. 90.

*M. de Rayneval to Lord Stuart de Rothesay.*

MONSIEUR L'AMBASSADEUR,

Paris, 11 Septembre 1828.

J'AI reçu la Lettre que Votre Excellence m'a fait l'honneur de m'écrire le 6 de ce mois, avec une Liste de Bâtimens, sous Pavillon Français signalés comme faisant la Traite des Noirs sur la Côte d'Afrique.

Je prie votre Excellence de recevoir mes remerciemens de cette Communication, dont le Gouvernement du Roi s'empressera de faire usage.

J'ai l'honneur d'être,

(Signed)

RAYNEVAL.

*S. E. Monsieur l'Ambassadeur d'Angleterre.*

(Translation.)

MY LORD,

*Paris, September 11, 1828.*

I HAVE received the Letter which your Excellency did me the honour to write to me on the 6th of this Month, with a List of the Vessels under French Colours, described as carrying on the Slave-trade on the Coast of Africa.

I beg your Excellency to receive my thanks for that Communication, of which The King's Government will hasten to make use.

I have the honour, &amp;c.

(Signed) RAYNEVAL.

*H. E. the Ambassador of England.*

## DENMARK.

No. 91.

*The Right Hon. H. W. W. Wynn to The Earl of Aberdeen.—*  
(Received September 2.)

MY LORD,

*Copenhagen, August 26, 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, of the Slave-trade series, dated the 9th Ultimo, transmitting to me the Papers which had been laid before both Houses of Parliament during the late Session. I have nothing to communicate to your Lordship on the subject.

The Danish Government was the first to abolish the Slave-trade. They have religiously adhered to the Engagement then taken, nor has there been any instance of the Danish Flag having covered illicit transactions, such as have given cause for so many repeated complaints in other Countries.

I have, &amp;c.

(Signed) H. W. WILLIAMS WYNN.

*The Right Hon. The Earl of Aberdeen,*  
           &c.                   &c.                   &c.

# SWEDEN.

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No. 92.

*The Hon. J. Bloomfield to The Earl of Aberdeen.—(Received August 23.)*

MY LORD,

*Stockholm, August 8, 1828.*

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, addressed to Lord Bloomfield, of the 9th Ultimo, marked Slave-trade, enclosing Papers relative to the Slave-trade, which have been laid before Parliament in the course of the present Session.

I have the honour to be, &c.

(Signed) J. BLOOMFIELD.

*The Right Hon. The Earl of Aberdeen,*  
 &c.                      &c.                      &c.

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**AND**

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